

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF DELAWARE

- - -

UNITED STATES OF AMERICA, : CRIMINAL ACTION
:
Plaintiff, :
:
v :
:
OMAR MORALES COLON, :
:
Defendant. : NO. 17-47-LPS-1

- - -

Wilmington, Delaware
Friday, September 17, 2021
Jury Trial - Volume A

- - -

BEFORE: HONORABLE LEONARD P. STARK, U.S.D.C.J., and a jury

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APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE
BY: WHITNEY CLOUD, ESQ.,
And, JENNIFER K. WELSH, ESQ.
Assistant United States Attorneys

Counsel for Government

LAW OFFICE OF DINA CHAVAR
BY: DINA CHAVAR, ESQ.

Counsel for Omar Morales Colon

Valerie J. Gunning
Official Court Reporter

Brian P. Gaffigan
Official Court Reporter

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P R O C E E D I N G S

(REPORTER'S NOTE: The following jury trial was held in open court, beginning at 8:30 p.m.)

THE COURT: Good morning, everyone.

(The attorneys respond, "Good morning, Your Honor.")

THE COURT: I'll have the government introduce the case, please.

MS. WELSH: Yes, Your Honor. I'm sorry. I'm a little rusty.

THE COURT: Okay.

MS. WELSH: Your Honor, Jennifer Welsh for the government with Whitney Cloud, co-counsel in the case. And we're here in the matter of United States versus Omar Morales Colon.

Can I remove my mask?

THE COURT: You may while we're speaking, yes.

MS. WELSH: And it's Criminal Action No. 17-47. The defendant is present with counsel. And the government is ready to proceed.

THE COURT: Okay. Thank you very much.

Good morning, Ms. Chavar.

MS. CHAVAR: Good morning, Your Honor.

THE COURT: You are ready to proceed as well;

1 correct? Ms. Chavar, are you ready to proceed?

2 MS. CHAVAR: I am. And may I introduce you to
3 Marisa Rossman, an attorney who will be assisting me during
4 the jury selection?

5 THE COURT: Good morning, Ms. Rossman.
6 Welcome.

7 MS. ROSSMAN: Good morning. Thank you.

8 THE COURT: Good morning, Mr. Colon.

9 So let's start with this continuance request we
10 got late in the date yesterday.

11 Ms. Chavar, why don't you come to the podium.
12 There is really not much in here, and as best I can tell,
13 you don't indicate you are not prepared for trial but if I
14 misunderstand, let me know. And you can take your mask off
15 while speaking if you want to.

16 MS. CHAVAR: I do. And I thank you.

17 Your Honor, there is not much in that motion
18 because I think it's pretty simple. What I wanted to bring
19 to the Court's attention is that there are certain tasks
20 that Mr. Colon has asked me to do, and they can be put in
21 two groups. One of them would be to locate witnesses and
22 the other would be to subpoena certain records, and which,
23 because they would go to the defense, I'm reluctant to name
24 those records. I'm happy to let Your Honor know at sidebar,
25 but ...

1 THE COURT: Sure. I'm not looking for
2 specifics.

3 MS. CHAVAR: Thank you.

4 THE COURT: Really mostly I want to know what is
5 your view because I read this motion as Mr. Colon would like
6 certain things, but I'm ready for trial.

7 MS. CHAVAR: My view is this: I have an
8 investigator looking for those witnesses. I don't know how
9 many he will find before Monday.

10 As for the records, and I pondered this
11 yesterday afternoon for awhile after I was through meeting
12 with Mr. Colon. How -- I don't know how can I say, I don't
13 know what is in them, whether I am fully prepared for trial.

14 I looked back at some of my notes and notes that
15 I had with prior counsel. It has been a consistent request.
16 It's not something new. I looked at that first, or later in
17 the day, rather.

18 We met, Your Honor, Mr. Colon and I. I'll just
19 get right to the point. I did as much as I could as far as
20 focusing on the case, learning the case, reviewing the
21 evidence because it's, it's a lot. To that end, I have
22 working knowledge of the case.

23 And now we have this. And it was one of those
24 things where, in the last month, it was on my list. I had
25 difficulties trying to get an investigator onboard. A lot

1 of difficulties with that.

2 And before you know it, then time goes by, and
3 at our meeting yesterday, Mr. Colon said to me, at the end
4 of the meeting, do you think that we're going to get these
5 records in time?

6 It usually takes 21 days. It says on their
7 notice 21 days, so I don't know. I don't know how they
8 would respond to a court order with a specific date to
9 produce, which I would make the 20th. And that's where it's
10 at. He has asked for a modest continuance, very modest,
11 30 days. He made that clear to me, like could we just get
12 30 days, no more.

13 I, in my paper, extended that because that would
14 be the end of October to a date in November because of
15 scheduling difficulties I have in October.

16 Your Honor, in a case like this, where I was
17 appointed maybe four months ago, I'm ready for a trial as
18 far as knowing the case and understanding the government's
19 theory and formulating a strategy for defense. But it's
20 kind of, I don't know that I could stand here, that any
21 attorney should stand here and say I am fully prepared,
22 there is no need to do anything further when Mr. Colon has
23 brought this to my attention and had a reasonable discussion
24 about it.

25 THE COURT: All right. Let me ask you just a

1 couple more questions.

2 MS. CHAVAR: Yes.

3 THE COURT: It sound like what you are saying is
4 some or all of what Mr. Colon is asking you to do, he has
5 asked for some time; that is, these witnesses and these
6 records, he didn't ask you just for the first time yesterday
7 to locate them or subpoena them. Is that right?

8 MS. CHAVAR: That is correct, Your Honor. And I
9 apologize for that. I think it came -- well, I know it came
10 up briefly in our first meeting and then he raised it again
11 at end of our meeting in July, after we went through a lot
12 of other.

13 THE COURT: Was any of this new to you yesterday
14 or did you know all of it was something he wanted by July?

15 MS. CHAVAR: I knew it was something he wanted
16 by July and I lost track of that.

17 THE COURT: And the subpoenaed record, the
18 records he wants subpoenaed, you have subpoenaed them but
19 you just haven't gotten them returned yet; is that right?

20 MS. CHAVAR: I have not subpoenaed them yet.
21 When he brought it up yesterday, it was like I remembered
22 from the week before or whenever we finished pretrial
23 motions. And I spoke to him and I said, okay, we're going
24 to turn our direction to that now and then I got caught up
25 in getting an investigator, getting that going. I just --

1 THE COURT: Okay. And then your motion does say
2 there were factors that arose that were beyond your control
3 which delayed the completion of certain tasks requested by
4 Mr. Colon. I take it is one of them the difficulty you had
5 finding an investigator?

6 MS. CHAVAR: Yes, as well as complications only
7 other cases.

8 THE COURT: Is there anything else that was
9 unforeseen that you feel comfortable saying to me in open
10 court? If there is anything.

11 MS. CHAVAR: Yes, I would just say difficulties
12 with three other cases that was unforeseen and required my
13 immediate attention in the month of August. One in the very
14 beginning of August.

15 THE COURT: I don't --

16 MS. CHAVAR: I'm sorry.

17 THE COURT: Okay. I really am looking for, I'm
18 making a list of the things that were unforeseen. I
19 understand difficulty finding an investigator, complications
20 with other cases. Is there anything else on that list, not
21 more detail but other items that would have been unforeseen
22 to you that you feel comfortable talking about?

23 MS. CHAVAR: Well, in the week that the pretrial
24 motions were due, I had a personal issue that prevented me
25 from working at full speed that week.

1 THE COURT: All right.

2 MS. CHAVAR: And I apologize, Your Honor.

3 THE COURT: Thank you. Let me see what the
4 government wants to say about this.

5 MS. WELSH: Your Honor, I'm going say with
6 slightly more urgency than the things we said before because
7 we are coming to another trial date as close as we have ever
8 come and here we are with another continuance request.

9 Here we stand four years and four months since
10 the defendant was arrested. By the way, also four years and
11 four months since potential testifying cooperators were
12 arrested. A jury is here to be impaneled, and the night
13 before jury selection, the defendant reiterates his request
14 for witnesses and documents that he claims are going to
15 change the trajectory of this case.

16 They will not. There are no magic witnesses
17 here. There are no magic documents that are going to
18 explain away why the defendant showed up to the parking lot
19 of a hotel with almost \$400,000 to meet with somebody who
20 had 17 kilograms of cocaine and why he had a secret
21 underground marijuana bunker.

22 His goal as always is not to, you know, come up
23 with documents or witnesses that are going materially impact
24 the case. It's to run out the clock so that our cooperators
25 will decide it is not worth their while to continue to wait

1 to be sentenced.

2 And to some extent, his strategy has worked.

3 The government's case has changed and evolved over the case
4 of four years, and we have fewer witnesses starting Monday
5 than we would had this case gone to trial a couple of years
6 ago. Some important witnesses. Our case is still strong,
7 we've evolved, but we have lost witnesses and we would
8 continue to lose witnesses even if there were a short
9 continuance, potentially.

10 You know, it seems on its face like a reasonable
11 request to just move -- if you don't know the whole history
12 of this case, to just move by 30 days, but given the
13 circumstances, the logistics here, the jury is here. Our
14 witnesses are prepared to testify, some of whom have moved
15 on by the way because of the passage of time, retired, have
16 to travel. Everybody is prepared to come for trial next
17 week.

18 If the defendant has witnesses that he would
19 like to have here, he's got until the middle of next week to
20 get them here. And my guess is that they're people that he
21 knows and knows where to find them.

22 Giving him additional time -- I would also note,
23 Your Honor, that the government filed its trial brief in
24 this case on August 18th, which was before defense motions
25 were due. We did that on purpose to sort of help, you know,

1 get this case in a good trajectory to trial on time, and
2 because of that, and because of discovery, the defendant
3 knows now who is going to be testifying, who the cooperators
4 are, and giving him any additional time is giving him
5 additional time to attempt to obstruct the administration of
6 justice, which even just the delay has done that, but he can
7 get even more bold in that regard.

8 Prior counsel was apparently asked, I believe,
9 to undertake some of these tasks and chose not to do so.

10 If this were some sort of an alibi witness, by
11 the way, we would have expected to receive that information
12 before, since we made a reciprocal discovery request, but if
13 it was a game changing witness, someone would expect that
14 prior counsel or that counsel would have known to go talk to
15 those people. What we suspect is they are folks that have
16 information potentially about, you know, the defendant's
17 larger activities.

18 But again this trial is pretty limited. It's
19 about the six month cocaine conspiracy that ended in the
20 parking lot of the hotel that day with the money exchanged
21 for the kilos, and it's about the underground marijuana
22 bunker. And we are unaware of any witnesses who could come
23 save the day here. And that is after a long investigation
24 and a post-arrest interview with the defendant, a proffer
25 interview with the defendant at which he laid out, you know,

1 his potential defense. We don't expect that there are any
2 sort of magic witnesses here.

3 We don't know for sure, but that's our
4 expectation. And as for the records that the defendant
5 seeks now, the defendant, I'm sure the Court has noticed
6 this as well, but I will just say he has certain issues,
7 certain facts that he is very focused on. In the motion to
8 suppress the wiretap, those became clear in the subsequent
9 motions, renewed motions to suppress the wiretap. For
10 example, there are some phone records that he thought would
11 be really, really critically important to his case. I don't
12 know if those are the documents he's looking to subpoena
13 here. You know, he has sort of issues that he believes the
14 government is lying about in some way.

15 Those issues are only very, very a little bit
16 relevant here. Putatively, we could try our case completely
17 without any phone records basically and you still have the
18 defendant showing up to the parking lot that day with the
19 money, the kilos are there and the bunkers underneath the
20 house.

21 So I think it's important that counsel is not
22 required to be constitutionally effective, counsel is not
23 required to run down absolutely every single lead, subpoena
24 every single document, talk to every single potential
25 witness. If there were a material witness here who would

1 change the trajectory of this case, that would obviously be
2 something that counsel should have done, any counsel, over
3 the course of the last four years and four months. We
4 strongly suspect that's not the case.

5 Now, Your Honor, we ask that you deny the
6 continuance request and we ask that we select the jury
7 today, that we go to trial on Monday; that the defendant
8 spend the next several days through the investigator or
9 through counsel seeking out these witnesses and attempting
10 to compel them to testify. Perhaps, you know, the Court
11 could issue an order for these documents, but we would ask
12 that the trial not be continued for that reason.

13 And, Your Honor, if the Court is inclined to
14 deny the continuance request, which we hope that the Court
15 is, we would ask that sort of a brief record be made not in
16 our presence, ex parte, so that the Court can understand who
17 these witnesses are, what these documents are, because if we
18 are to argue about this potentially post-conviction, I
19 assume that, you know, the Third Circuit would want to know
20 exactly what it is that the defendant intended to bring to
21 court next week.

22 And, Your Honor, you know, the Court is very
23 busy. Counsel is all very busy in terms of other cases.
24 November, personally, I have another trial. I wouldn't be
25 surprised if the Court has several other trials. Every time

1 this gets moved, it requires a significant reshuffling. Law
2 enforcement resources are wasted, the Government's
3 significant resources are wasted. We've prepared all of our
4 witnesses. We prepared all of our documents and we are
5 ready to go and it is time.

6 THE COURT: Just one question. You suggested if
7 I were to continue the trial by 30 or 45 days, you might
8 lose yet another witness. Are you saying that there's a
9 theoretical possibility none of us can see the future or do
10 you really have a good faith belief that there is a specific
11 witness or witnesses who may not be available?

12 MS. WELSH: I have a significant witness in
13 mind, Your Honor. The defendant knows who that is. I'm
14 inclined not to say who that is.

15 THE COURT: That's fine. I don't need the
16 details.

17 MS. WELSH: I don't want to imply we've been
18 told 30 days will be a deal breaker here, but every time
19 this gets moved, that conversation of whether or not that
20 person will come testify, that conversation has to start
21 anew every time the trial gets moved, and even if it were to
22 be moved by 30 days given the schedule in that person's
23 case, 30 days is a big deal.

24 THE COURT: Okay. Thank you very much.

25 Ms. Chavar, anything you want to add?

1 MS. CHAVAR: Very briefly. I don't know
2 anything about the representations Ms. Welsh made about what
3 his agenda, what Mr. Colon's agenda was or strategy was or
4 prior continuance. I don't know anything about that. I
5 can't speak to it.

6 I was appointed May 18th. I have not had any
7 issues in my attorney/client relationship with him. He
8 never talked about a continuance. He didn't even bring it
9 up until the end of the meeting yesterday with the inquiry,
10 do you think it's possible that we're even going to get
11 these on time.

12 Now, admittedly, I don't know what the test
13 is. I don't know if I have to come here and show that I
14 have a belief that the records that he wants will change the
15 day. I don't know that. If it is, Your Honor, I can't say
16 that.

17 I know that -- I mean, I can't say it either
18 way, whether it will or will not. I don't know if I agree
19 with the representation that defense counsel is not
20 obligated to run down every witness or every lead provided
21 by the defendant to be effective.

22 It's my understanding that I am supposed to seek
23 out witnesses that are brought to my attention, but
24 admittedly, I don't know if that's the definitive position,
25 that I have to run down every one of them. I'm just saying

1 that this is something he did ask prior counsel to get. He
2 asked me. And I will be remiss if I did not bring it to the
3 Court's attention today and to say I didn't do it. I didn't
4 have the time. I lost track of things and I don't think
5 it's unreasonable for him to ask for 30 days.

6 Thank you, Your Honor.

7 THE COURT: Thank you.

8 MS. CHAVAR: Your Honor, would you indulge me a
9 minute?

10 THE COURT: Go right ahead.

11 (Pause while Ms. Chavar and the defendant
12 conferred.)

13 THE COURT: Ms. Chavar, I'm ready whenever you
14 are.

15 MS. CHAVAR: Okay. Your Honor, I apologize.
16 We're okay, Your Honor. Thank you.

17 THE COURT: Okay.

18 MS. CHAVAR: Nothing further.

19 THE COURT: All right. So a couple things.
20 Half of our jury pool, approximately 40, are here. They
21 will be ready for us in just a few minutes. I'm mindful of
22 that, but that principally means I'm going to have to make a
23 decision pretty soon about whether we're going forward with
24 jury selection and with trial.

25 I think regardless of whether we're going

1 forward or not, it's probably the right thing to do next to
2 excuse the government, have the ex parte discussion so I
3 have a better understanding as to what the defense is really
4 asking. Don't go far. We'll bring you right back. Then
5 it's quite likely that I'm going to need to take at least a
6 short break to give this a little thought, but I recognize I
7 need to make a decision. We need to know which way we're
8 going. So we'll ask the AUSAs to step out for a few
9 moments.

10 (The Assistant United States Attorneys were
11 excused from the courtroom. Following portion ordered
12 sealed by the Court, bound separately.)

13 * * *

14 THE COURT: I'll note for the record we reopened
15 the courtroom. This discussion is not under seal and we've
16 been rejoined by the two AUSAs.

17 For your benefit, I'll advise you that I have
18 received a proffer ex parte from Ms. Chavar listing for me
19 the documents that she would be hoping to have in time for
20 trial next week as well as a list of witnesses which I
21 believe is nine witnesses. And I have had her list them by
22 name for me and tell me about how they may fit into this
23 trial.

24 With respect to the documents, I have been,
25 without objection, I have been permitted to tell you that

1 they relate to the seven T-Mobile phones, seven T-Mobile
2 phones.

3 MS. CHAVAR: Seven.

4 THE COURT: Seven, yes. And I am asking the
5 government whether you have any additional records related
6 to those seven T-Mobile phones that have not been produced
7 or that possibly maybe have been produced but didn't get to
8 Ms. Chavar.

9 But are there any documents relating to how you
10 requested those T-Mobile phones or records that you got back
11 relating to the T-Mobile phones that have not been produced?

12 MS. CLOUD: Your Honor, Whitney Cloud for the
13 government.

14 No. We have produced the records to Ms. Chavar,
15 we produced the records to prior counsel. There are no
16 additional records that we have that have not been produced.

17 Further, T-Mobile would not be able, relating to
18 these prepaid phones, would not be able to produce records
19 at this time.

20 THE COURT: They would not be able to produce
21 additional records.

22 MS. CLOUD: Correct.

23 THE COURT: Even under a court order?

24 MS. CLOUD: Even under court order.

25 THE COURT: And how do you know that?

1 MS. CLOUD: I know that because T-Mobile no
2 longer maintains these records because they're prepaid
3 phones and it's been four years, so that's outside the time
4 for which they retain these records.

5 THE COURT: Okay.

6 MS. CLOUD: We asked them specifically for this,
7 so we know, we know this to a certainty.

8 THE COURT: Okay. All right. We're going to
9 take a short recess.

10 Is there anything you want to add, Ms. Chavar?

11 MS. CHAVAR: No, Your Honor.

12 THE COURT: Okay. Let's take a short recess.

13 (Brief recess taken.)

14 * * *

15 (Proceedings reconvened after recess.)

16 THE COURT: Have a seat.

17 All right. Well, the first order of business is
18 to give you a decision on the defendant's motion to continue
19 trial.

20 I have decided to deny the motion. We're going
21 to go forward with this trial as scheduled and we'll begin
22 jury selection just as quickly as we can.

23 I have a few jury-related issues to talk about
24 before we bring the jurors up, and we are already well
25 behind the schedule that we were trying to follow, but I'm

1 hopeful that we can get this jury selected today that we
2 have scheduled.

3 The motion to continue trial comes in at the
4 last moment. It was filed late in the day, the day before
5 jury selection. In my view, defendant's counsel is prepared
6 to proceed with this trial, and I know she did quite a lot
7 of work to be prepared. I recognize she has only been on
8 the case since May and that was a lot of work to do to get
9 to this point but -- and from everything I can tell, she did
10 the work that was necessary. She did the work she thought
11 would put her in a good position to competently and
12 effectively represent Mr. Colon in this trial which has been
13 on the calendar for awhile.

14 We had the pretrial conference. We had all the
15 motions practice. No indication that defense counsel wasn't
16 prepared. And from my discussions this morning both in open
17 court and ex parte, I continue to believe that she is
18 prepared to proceed and to effectively represent Mr. Colon.

19 It's true that effective counsel does not have
20 to necessarily do everything that her client asks her to do.

21 And I should add, I am informed in part by the
22 ex parte proffer. I have no basis to believe that anything
23 that in terms of the bucket of documents or witnesses that
24 the continuance is based on would make any meaningful
25 difference to how this trial would proceed.

1 In terms of the documents, it appears that based
2 on the discussion that defense authorized me to have with
3 the government that no additional documents exist. Not only
4 does the government not have additional T-Mobile related
5 documents, they represent that given the passage of time, no
6 more documents exist. So clearly that is not a basis for a
7 continuance.

8 And in terms of the witnesses, I won't go into
9 any details. A record has been made ex parte but given the
10 nature of the charges, given the nature of the evidence
11 that the government has, I believe that those witnesses
12 would make a minuscule, if any, difference to how this trial
13 would proceed, and therefore I find no meritorious basis to
14 continue with respect to those witnesses.

15 I do need to balance all of that against the
16 government's interest here. And I think, and find, that the
17 government would be enormously prejudiced were I to continue
18 this trial yet again. Obviously, the government is
19 prepared, and they prepared their witnesses and prepared
20 their documents. This is not probably even the first time
21 the government has prepared for this trial.

22 If the government represents, and I accept their
23 representation, that they have lost witnesses from their
24 witness list given the delays that have been encountered in
25 just getting to this point, that is the many times we had

1 to reschedule this trial and they represent that even a
2 continuance of 30 days might cause them to lose an additional
3 witness, and even if they didn't, clearly rescheduling the
4 trial at the last minute would lead to, you know, having to
5 prepare yet again, wasting government resource, wasting law
6 enforcement resources, and I just see absolutely no basis to
7 impose those costs on the government.

8 I will add to that although that is more than
9 enough already, we had roughly 40 jurors waiting elsewhere in
10 the courthouse who have indicated they're ready to perform
11 their duty of citizenship to serve on this jury in a time of
12 COVID. It's unfortunately at some risk, we think a risk that
13 we have managed effectively but some risk for them to leave
14 their jobs, leave their families to be here with us today to
15 assemble in a group and be available to us as potential
16 jurors, and we have another group of roughly 40 that is due
17 in the building in an hour or so to also make themselves
18 available to us. It would be prejudicial and unfortunate to
19 all of them who went to that trouble to now turn them away
20 just so another group like them would have to assemble roughly
21 30 days and take all the risks attendant and all costs with
22 that.

23 I won't go into any detail about what it would
24 do to my schedule, and when if ever -- "if ever" is an
25 exaggeration, but when and how I would get you back in my

1 calendar in the next 30 to 45 days, that is a challenge in
2 itself, but not one that I considered too much.

3 But anyway, the government -- sorry, the
4 defendant's motion for continuance is denied.

5 Ms. Chavar, any questions about that?

6 MS. CHAVAR: No, Your Honor. I understand the
7 Court's ruling. I thank Your Honor for hearing us this
8 morning, and just for purposes of the record, I'll just note
9 my exception.

10 THE COURT: Of course.

11 MS. CHAVAR: Thank you, Your Honor.

12 THE COURT: I should have also added, I know
13 Ms. Chavar is well aware of this, we won't get to the
14 defense case until some time next week. Obviously we're not
15 calling any witnesses today, and I expect the government, I
16 expect you know their case pretty well.

17 MS. CHAVAR: Um-hmm.

18 THE COURT: They've got a list of a fair number
19 of witnesses, so you've probably got a couple days next week
20 also to keep trying to track down these witnesses.

21 MS. CHAVAR: And I am doing so, Your Honor.

22 Thank you.

23 THE COURT: All right.

24 MS. CHAVAR: And just so Your Honor is aware, I
25 had some discussions with AUSAs Welsh and Cloud during the

1 break. And there is some raw data from T-Mobile that they
2 can produce which is what they used to make this chart that
3 they produced of the calls, and I think that is a portion of
4 what Mr. Colon is seeking. So we've made some progress in
5 that regard. It's certainly not anything that is held back.
6 It's the raw data.

7 So I can get that from them later today.

8 THE COURT: Okay. Do you want to confirm that
9 for the record?

10 MS. WELSH: Your Honor, we have agreed to
11 produce it. I want to make sure that the record is clear
12 that these are CSC files that we produced to the defendant
13 himself long ago. He has had them for a long time. We
14 produced them straight to the, defendant and, in fact, we
15 had to put them into a different format besides CSC files
16 because he couldn't view them in prison, so he has had this.
17 He personally has had this material for quite some time,
18 since before COVID.

19 THE COURT: Okay. But you will reproduce them.

20 MS. WELSH: We will reproduce them. Absolutely.

21 THE COURT: Okay.

22 MS. CHAVAR: That would be with his counselor at
23 the FDC? Is that where it was produced?

24 MS. CLOUD: Yes, it was produced directly to the
25 FDC, I want to say it was in February of 2019. We heard

1 this request before. We complied with the request back
2 then. We introduced the CSC files. Everything is fine, so
3 ...

4 THE COURT: Okay. Thank you.

5 MS. CHAVAR: Thank you, Your Honor.

6 THE COURT: Is there anything else the
7 government wants to say about my ruling or about the
8 continuance or anything else?

9 MS. WELSH: No, Your Honor.

10 THE COURT: All right. Just quickly. Let's
11 update the record on the jury pool, make sure we're all in
12 agreement about what is going to happen next.

13 And some of this is just to make the record,
14 because thank you to counsel, we've had various email
15 communications to get us from the pretrial conference to
16 this point.

17 128 jurors were noticed for this trial. As this
18 morning, 90 jurors remained in the pool. 70 had answered
19 our COVID questionnaire, 20 had not.

20 As to the jurors who did not answer the COVID
21 questionnaire, the parties asked that we not excuse them en
22 masse, so we honored that request and those jurors remained
23 in the pool as of this morning.

24 38 jurors as of this morning had been excused.
25 There was a dispute about four of them. Defense wanted to

1 excuse those four jurors based on their responses, based on
2 hardship. The government wanted them to report for service.
3 The Court excused those four based on the hardship.

4 Three other hardship requests were sent to the
5 Court. I shared those requests with the parties. There
6 were no objections to the Court excusing them so we excused
7 all three of them based on the hardship. There were 11
8 jurors that both sides agreed should be excused.

9 Then there were 19 other jurors that were
10 excused based on the parties' agreement that anyone who
11 answered "yes" to Questions 1, 2, or 3 on the COVID
12 questionnaire could automatically be excused.

13 One more juror was excused because she told us
14 on September 16th, yesterday, that she had been exposed to
15 COVID.

16 Are there any questions to that or did I get any
17 of that wrong from the government's perspective?

18 MS. WELSH: No, Your Honor. That all sounds
19 right.

20 THE COURT: Ms. Chavar.

21 MS. CHAVAR: No, Your Honor.

22 THE COURT: Okay. Now, in terms of where we are
23 now with pool number 1. Perhaps our jury administrator who
24 is here, would you mind telling us if you know how many
25 people showed up in this first group and what we should

1 expect?

2 THE JUROR ADMINISTRATOR: Yes, Your Honor.

3 There are 38 jurors. We had maybe eight fill out COVID
4 questionnaires over the night which I, I sent along. And
5 then I think another six or eight completed them in person
6 by hand that I have given you.

7 But 38 jurors have been randomized and are
8 awaiting.

9 THE COURT: Okay. Great.

10 So the parties don't yet have the randomized
11 list; correct?

12 MS. WELSH: Yes.

13 THE COURT: We'll give you the randomized list
14 now. So this should be the 38; is that right?

15 So as we discussed earlier, they have been
16 pre-randomized. After I read the general voir dire
17 questions, I will bring them back in one by one in this
18 order. That is the randomized order.

19 Now, for some of these, I take it the parties
20 have not yet seen the COVID questionnaire response?

21 (Documents passed out.)

22 Okay. So we're now going to hand you additional
23 COVID questionnaire responses. Some of which you have not
24 seen yet. And I would ask that you try to look through
25 these and we're going to take a short break in a moment.

1 Because I assume the jurors are downstairs; correct?

2 THE JUROR ADMINISTRATOR: They're up here.

3 THE COURT: Oh, they're out in the hallway?

4 THE JUROR ADMINISTRATOR: Yes.

5 THE COURT: Great. So I'm going to take a short
6 break just so the jurors can come in and get settled.

7 The next thing that will happen is I will read
8 that voir dire to them. Then we'll send them all to
9 Courtroom 6A. At that point, I will ask if you have had
10 time to look at these new questionnaires and that maybe
11 there is some additional folks we can excuse and not bring
12 them back in, one by one.

13 Any questions about that or anything else? I
14 know there are other issues we have to get to today but I'm
15 focused on trying to pick a jury. Is there anything else
16 before we take a short break?

17 MS. WELSH: Nothing else, Your Honor.

18 THE COURT: Nothing. Ms. Chavar?

19 MS. CHAVAR: No, Your Honor.

20 THE COURT: All right. We'll be back as soon as
21 the jury pool is ready.

22 (Brief recess taken.)

23 * * *

24 (Proceedings reconvened after recess.)

25 THE COURT: Good morning, everyone.

1 Have a seat, please.

2 I am Judge Stark, one of the District Judges
3 here in the District Court for the District of Delaware.
4 Thank you as potential jurors for being here and being
5 willing to perform a valuable duty of serving on a jury, a
6 duty we all share as citizens.

7 In a moment I am going to turn to a somewhat
8 lengthy document called voir dire and read it to you and
9 read you a bunch of questions, but before I do that, I just
10 wanted to say something about our face covering, our masking
11 policy.

12 As you know, and as you all have your masks on
13 in our building, the policy right now is that you have to
14 have a mask on basically at all times. There are very
15 limited exceptions to that.

16 One exception is that during this jury selection
17 process, I'm going to have a chance to meet with each of you
18 individually to discuss if you have any concerns about COVID
19 or any other concerns about serving on this jury. When we
20 have that one-on-one meeting, and I say the parties will be
21 here as well, but when you come in as the only potential
22 juror, I will ask you if you are comfortable doing so to
23 remove your mask just for that brief discussion.

24 If you would rather not remove your mask, I
25 would ask you if you are comfortable wearing a clear mask we

1 can provide you. And if you are not comfortable with that,
2 that's fine. You will just keep your mask on.

3 But that is one exception to our masking policy.

4 Another one is when the witnesses or lawyers or
5 me are speaking, we're permitted to take our masks off. All
6 of us are vaccinated and I do permit when speaking for those
7 folks to remove their masks.

8 And then finally, when each of you are eating or
9 drinking, of course you can remove your mask, and those of
10 you who are on our jury will have occasion to have lunch
11 here or maybe be drinking water during the trial. Of course
12 you can remove your mask for that, but otherwise the mask is
13 to remain on.

14 So with that, I'm going to turn to this document
15 called voir dire. And I'm going to take my mask off because
16 as I warned you, it's a little bit lengthy for the me to
17 read to you.

18 It begins:

19 I am Judge Stark, the Trial Judge in this case.
20 You have been called to this courtroom as a panel of
21 prospective jurors in the case of United States versus Omar
22 Morales Colon. This is a criminal case in which Mr. Colon
23 is charged with Conspiracy to Distribute Cocaine, Attempted
24 Possession With Intent to Distribute Cocaine, Manufacture of
25 Marijuana, and Possession With Intent to Distribute

1 Marijuana.

2 From this panel, we will select the jurors who
3 will sit on the jury trial that will decide this case. We
4 will also select alternative jurors who will be part of this
5 trial and available in the event that one of the regular
6 jurors becomes ill or is otherwise unable to continue on the
7 jury.

8 Under our system of justice, the role of the
9 jury is to find the facts of the case based on the evidence
10 presented in the trial. That is, from the evidence seen and
11 heard in court, the jury decides what the facts are, and
12 then applies to those facts the law that I will give in my
13 instructions to the jury. My role as the Trial Judge is to
14 make whatever legal decisions that must be made during the
15 trial and to explain to the jury the legal principles that
16 will guide its decisions.

17 The ongoing COVID-19 pandemic has made for
18 difficult and trying times for all of us. I expect you may
19 have questions and concerns about the possibility of serving
20 on a jury at this time. We want you to know that we are
21 absolutely committed to the safety and well-being of our
22 jurors. We are closely monitoring and following the
23 guidance issued by the CDC and local health authorities and
24 have undertaken extensive efforts to make our spaces as safe
25 as possible. We are also taking all possible precautions

1 throughout the process of jury selection, trial, and
2 deliberations to safeguard everyone's participation.

3 We recognize that you are all here at some
4 sacrifice, especially during this ongoing pandemic.
5 However, we cannot excuse anyone merely because of personal
6 inconvenience, unless serving on this jury would be a
7 compelling hardship. We have reviewed the COVID-19
8 questionnaires that you have filled in and submitted, and we
9 have carefully considered the answers that you provided to
10 us.

11 Jurors perform a vital role in the American
12 system of justice. We rely on juries to decide cases tried
13 in our courts, so service on a jury is an important duty of
14 citizenship. Jurors must conduct themselves with honesty,
15 integrity, and fairness.

16 In a few minutes, you will be sworn to answer
17 truthfully questions about your qualifications to sit as
18 jurors in this case. This questioning process is called
19 voir dire. I will conduct the questioning, and the lawyers
20 for the parties may also participate. It is, of course,
21 essential that you answer these questions truthfully. A
22 deliberately untruthful answer could result in severe
23 penalties.

24 Questions will be asked to find out whether any
25 of you has any personal interest in this case or know of any

1 reason why you cannot render a fair and impartial verdict.
2 We want to know whether you are related to or personally
3 acquainted with any of the parties, their lawyers, or any of
4 the witnesses who may appear during the trial, and whether
5 you already know anything about this case.

6 Other questions will be asked to determine
7 whether any of you has any feelings, beliefs, life
8 experiences, or any other reasons that might influence you
9 in rendering a verdict.

10 I am going to read the questions one by one. As
11 I do, please listen closely and think to yourself whether
12 you have a "yes" answer to any of the questions. If you
13 have a "yes" answer, you do not need to do or say anything.
14 You do not need to raise your hand; you do not need to
15 stand. Just try to keep in mind if you have a "yes" answer.

16 It is not necessary for you to remember the
17 number of questions you answered yes to. Instead, after I
18 have read all the questions, members of my staff will take
19 you back to the courtroom next to us, which we will use as
20 the jury room throughout this trial. Please wear a mask and
21 practice social distancing while you are in that courtroom
22 and whenever you are in and moving about the courthouse.
23 You may talk in that other courtroom, but you must not talk
24 about this case or about the voir dire questions and
25 answers.

1 We will then bring each of you back to this
2 courtroom one by one and discuss any "yes" answers you may
3 have had to any of my voir dire questions. I will be joined
4 by the lawyers and the court reporter and we will talk about
5 your concerns. To help with that discussion, we will ask
6 you to please remove your mask, and if you feel
7 uncomfortable doing that, we will provide you with a clear
8 face covering.

9 After we talk about your concerns, I will give
10 you further instructions on where to go next. Those
11 instructions may be that you are to return to the courtroom
12 later today for additional steps in the jury selection
13 process.

14 Once we have met with all members of the injury
15 pool one by one, we will bring some of you back into the
16 courtroom as a group. Those of you who remain in our jury
17 pool at that time will be joined by other potential jurors
18 we are meeting with at another time today. Then both the
19 government and the defendant will have the opportunity to
20 exercise peremptory challenges -- that is, they can strike
21 potential jurors for no reason at all.

22 After each side uses all of its peremptory
23 challenges, we will be left with our jury which will consist
24 of 12 jurors and 2 alternates. Those 14 individuals will be
25 required to return to court each day until the trial is

1 concluded.

2 As I have explained, after this process is
3 completed, not all of you will be chosen to sit on the jury
4 for this case. If you are not chosen, you should not take
5 it personally, and you should not consider it a reflection
6 on your ability or integrity.

7 I will have further instructions for you on the
8 schedule as we proceed through the selection process today.
9 Please be patient while we complete this process.

10 At this point, I will now ask my courtroom
11 deputy to administer an oath to the jury pool.

12 (Prospective jurors placed under oath.)

13 THE COURT: Thank you. You can all be seated.

14 As I noted at the start, this case is captioned
15 United States vs. Omar Morales Colon. The defendant is
16 charged with several controlled substance offenses. The
17 defendant has pleaded not guilty to the charges. The
18 trial in this case is expected to conclude by next Friday,
19 September 24th, and may conclude earlier.

20 With that background, I will now read to you the
21 voir dire questions. There are 37 of them.

22 Question 1. The government is represented by
23 assistant United States of Attorney, Jennifer Welsh and
24 Whitney Cloud. They will also be joined by Drug Enforcement
25 Administration special agent, Jeremy Smith, as well as

1 United States Attorney's Office Paralegal, Stephania Roca.

2 Question 1, ladies and gentlemen, is: Are you
3 related to or personally acquainted with any of these
4 individuals?

5 Question 2. Have you or any member of your
6 immediate family, or a close friend, had any dealings with
7 the United States Attorney's Office, the Drug Enforcement
8 Administration, Homeland Security investigations, the Newark
9 Police Department, the New Castle County Police Department,
10 or Zemi Property Management?

11 Question 3. The defendant is Omar Morales
12 Colon. The defendant is represented by attorney Dina
13 Chavar.

14 Do you or any member of your immediate family,
15 or a close friend, have any connection of any kind with
16 these individuals?

17 Question 4. Members of the jury, I am now going
18 to read the names of persons who may appear as witnesses in
19 this trial and will then ask if you know any of these
20 individuals: Shakira Martinez Smith, Anthony Salvemini,
21 Craig Maurer, Mark Lewis, James Kelly, Michelle Burrus,
22 Thomas Dillon Kashner, Gregory Simplter, Patrick M.
23 Campbell, James Skinner, Maolin Li, Mohamed Aviles Camberos,
24 Roque Valdez, John Cooper, and Nilsa Martinez.

25 Are you related to, or personally acquainted

1 with, any of these individuals?

2 Members of the panel, I am now going to read the
3 names of other individuals who may be discussed during this
4 case and then I will ask whether you know any of these
5 individuals: Shakira Martinez of Bear, Delaware. William
6 Brisco of Wilmington, Delaware. Devin Hackett of
7 Wilmington, Delaware. Karina Colon of Bear, Delaware.
8 Marisol Quiles Rivera of Wilmington, Delaware. Josue Torres
9 of Wilmington, Delaware. Elijah Barnett of Wilmington,
10 Delaware. Jose Molina-Martol of Aston, Pennsylvania.
11 Guadalupe Perez of Aston, Pennsylvania. Lewis Alvarez of
12 Aston, Pennsylvania.

13 Are you related to, or personally acquainted
14 with, any of these individuals?

15 Question 6. Have you read or heard anything in
16 the news media or on the internet concerning this case or
17 about the criminal charges being filed against Omar Morales
18 Colon?

19 Question 7. Have you ever served as a juror in
20 a criminal or a civil case or as a member of a grand jury in
21 either a federal or state court?

22 Question 8. Have you or any members of your
23 family ever been a witness to, victim of, or convicted of a
24 crime?

25 Question 9. Have you or any member of your

1 family been employed by or investigated by any law
2 enforcement agency, including any local police, private
3 security, or federal agency?

4 Question 10. Would you give more or less weight
5 to the testimony of a law enforcement agent or police
6 officer than you would to that of a civilian witness, simply
7 because he or she is employed as a law enforcement agent or
8 police officer?

9 Question 11. Would you tend to give the
10 testimony of a witness called by the prosecutor more weight
11 than the testimony of a witness called by a defendant?

12 Question 12. Do you belong to any crime
13 prevention societies, including but not limited to a
14 neighborhood watch organization?

15 Question 13. One or more of the witnesses in
16 this case may receive in the future lesser sentences in
17 exchange for cooperation with the government. Such plea
18 bargaining is lawful and proper.

19 Do you believe that the government should not
20 offer reduced sentences in exchange for cooperation and
21 testimony?

22 Question 14. Do you have opinions about guilty
23 plea agreements that would prevent you from being a fair and
24 impartial juror in this case?

25 Question 15. Would you refuse to believe such a

1 witness simply because he or she has been convicted of a
2 federal offense?

3 Question 16. Do you have any objections to
4 law enforcement officers legally taping conversations of
5 the defendants and others related to a criminal
6 investigation?

7 17. Have you or anyone in your family ever been
8 self-employed or owned their own business?

9 Question 18. The defendant is charged with
10 conspiring to distribute cocaine and manufacturing
11 marijuana, along with two possession with intent to
12 distribute charges.

13 Do you hold any beliefs, feelings, or prejudices
14 against these types of prosecutions such that you could not
15 sit as a fair and impartial juror in this case?

16 19. Do you have any opinions about drawing laws
17 that would make you unable to decide this case on the
18 evidence presented and the law as stated by the Court?

19 20. Do you have any such negative feelings
20 about drugs that you would be unable to evaluate the
21 evidence fairly as to the defendant?

22 21. Have you or any member of your family, or a
23 close friend, been addicted to drugs or placed in a drug
24 treatment program?

25 22. The possible punishment of the case is not

1 for the jury to decide. Will you have difficulty deciding
2 this case without concerns for any potential punishment the
3 defendant may or may not receive?

4 23. Would you be unable to sit in judgment of
5 another individual because of any personal beliefs?

6 24. Do you believe that if the government
7 charged someone with a crime, then that person is probably
8 guilty of something?

9 25. A fundamental principle of our legal system
10 is that when a person is charged with a criminal offense, he
11 is presumed to be innocent unless and until the government
12 proves guilt beyond a reasonable doubt. A defendant in a
13 criminal case has no obligation to prove anything or to
14 offer any evidence at all. If you are selected as a juror
15 in this case, will you have difficulty following this
16 instruction?

17 26. In a criminal case such as this, the
18 prosecution must prove each and every element of the
19 offenses charged beyond a reasonable doubt. If the
20 prosecution does not prove each and every element of the
21 offenses charged beyond a reasonable doubt, then the jury is
22 required by law to acquit the defendant; that is, to return
23 a verdict of not guilty.

24 If you are selected as a juror in this case,
25 will you have difficulty following this instruction?

1 27. A defendant has a constitutional right to
2 remain silent throughout the trial and not testify, and that
3 decision cannot be held against him or her.

4 If you are selected as a juror in this case,
5 will you have difficulty following this instruction?

6 28. In order to reach a verdict, all jurors
7 must reach the same conclusion. In deliberations, you must
8 consider the opinions and points of your fellow jurors, but
9 in the final analysis you must follow your own conscience
10 and be personally satisfied with the verdict.

11 Will you have difficulty expressing your own
12 opinions and thoughts about this case?

13 29. Will you have any difficulty in respecting
14 the views of your fellow jurors even if they are different
15 from your own?

16 30. Do you feel that you will tend to go along
17 with the majority of jurors even if you do not agree, just
18 because you are in the minority?

19 31. If you are selected as a juror in this
20 case, you will take an oath to render a verdict based upon
21 the law as given to you by the Court. You will be required
22 to accept the law as given to you by the Court without
23 regard to any personal opinion you may have as to what the
24 law is or should be.

25 Would you be unable to reach a verdict in

1 accordance with the law as given to you in the instructions
2 of the Court?

3 32. Provided the government proves the
4 defendant's guilt beyond a reasonable doubt, would anything
5 you might learn about the defendant concerning such things
6 as his age, health, race, national origin, religious
7 affiliation, family circumstances, or economic circumstances
8 prevent you from finding him guilty?

9 33. If you find, after considering the evidence
10 along with my instructions as to the law, that the defendant
11 is guilty of one or more of the counts of the indictment,
12 it will be my duty, as judge, to determine any punishment.
13 The law does not permit you to consider the issue of
14 punishment.

15 Would you vote not guilty no matter what the
16 evidence indicates, because of any possible punishment?

17 34. This trial may last until next Friday,
18 September 24th. So, if selected for the jury, you may have
19 to be here each day next week.

20 Each day will begin at 9:00 a.m. and may run
21 until as late as 5:00 p.m. We will have at least one
22 morning break and one afternoon break each day. Also,
23 there will be a lunch break and we will provide you with
24 lunch.

25 Does this schedule impose a substantial hardship

1 on?

2 35. Do you have any medical condition, for
3 instance, a visual or hearing impairment, which might affect
4 your ability to devote full attention to this proceeding?

5 36. In the time since you completed the
6 questionnaire regarding COVID 19, have you or anyone in your
7 household tested positive for COVID 19 or experienced
8 COVID-like symptoms, such as cough, fever, shortness of
9 breath, or loss of the sense of taste or smell?

10 37. Can you think of any other matter which you
11 should call to the Court's attention which may have some
12 bearing on your qualification as a juror, or which may
13 prevent you from render a fair and impartial verdict based
14 solely upon the evidence and my instructions as to the
15 law?

16 So that completes the voir dire questions. As I
17 have indicated, we're now going to take our jury pool into
18 the courtroom next to me, 6A, and then shortly we'll start
19 bringing you back in one by one to discuss whether you had
20 any "yes" answers to any of my questions, so please bear
21 with us.



22 Thank you for your patience at this point and I
23 will see all of you again shortly.

24 Take the jury out, please.

25 (The prospective jurors were excused to the

1 alternate courtroom.)

2 THE COURT: Before we start bringing the jurors
3 back in one by one, have you had a chance to look at the
4 latest COVID questionnaire responses and anything to say
5 about any members of the 38 that are in there right now?

6 MS. WELSH: Yes, Your Honor. We are in
7 agreement that the first person that we had here, is 
8 .

9 THE COURT: What number?

10 MS. WELSH: No. 100965379.

11 MS. CHAVAR: Juror 25.

12 THE COURT: 25?

13 MS. CLOUD: Yes, 25.

14 MS. WELSH: Sorry about that.

15 THE COURT: That's okay.

16 MS. WELSH: We're in agreement that that person
17 who has a COVID vaccination scheduled today, we would be a
18 couple days into the trial and also have child care
19 concerns, that --

20 THE COURT: Do you agree to striking 25?

21 MS. WELSH: Yes.

22 THE COURT: Is that correct, Ms. Chavar?

23 MS. CHAVAR: It is, Your Honor.

24 THE COURT: Are there any others you're
25 agreeable to striking?

1 MS. WELSH: No, Your Honor.

2 THE COURT: No? So I would propose we ask the
3 jury administrator to bring Juror No. 25 in here first and
4 we'll let that juror know that they are free to leave and
5 then after that we'll start with Juror No. 1.

6 I'm also advised by my law clerk that there are
7 four others who have answered yes to Question 1, 2 or 3, so
8 based on our prior discussion, I would think we should be
9 agreeable to striking them, but have you noticed that or do
10 you have an objection to that? I can tell you the jurors in
11 a moment.

12 MS. WELSH: Your Honor, anyone who answered yes
13 to 1, 2, or 3 --

14 THE COURT: Can be stricken?

15 MS. WELSH: Yes.

16 THE COURT: Do you agree with that, Ms. Chavar?

17 MS. CHAVAR: I do agree, Your Honor.

18 THE COURT: All right. All right. So the four
19 that I'm going to strike based on their "yes" answers are
20 Juror No. 10, //; Juror No. 16, //; Juror No. 19,
21 //; and Juror No. 28, //.

22 Any objection to that based on what we
23 discussed?

24 MS. WELSH: No, Your Honor.

25 THE COURT: Ms. Chavar?

1 MS. CHAVAR: No, Your Honor.

2 THE COURT: Okay. All right. So my deputy is
3 here. There are five jurors that we have stricken. I want
4 to bring them in first. So I think I already indicated
5 Juror No. 25, but if we could then work the lineup, 10, 16,
6 19 and 28, and then we'll go to Juror No. 1 after that.

7 Any question about how I'm going to do this?

8 MS. CHAVAR: No, Your Honor.

9 THE COURT: Okay. We're ready for No 25.

10 (The juror entered the courtroom.)

11 THE COURT: Good morning. Can you hear me okay
12 from here?

13 A JUROR: Yes, sir.

14 THE COURT: And you're our Juror No. 25, I
15 believe?

16 A JUROR: Yes.

17 THE COURT: Is that correct?

18 A JUROR: That's correct.

19 THE COURT: You are excused from serving on this
20 jury. I just wanted to bring you in here to tell you are
21 excused and to thank you very much for being willing to
22 serve. You're free to go.

23 A JUROR: All right.

24 THE COURT: Thank you.

25 (The juror left the courtroom.)

* * *

(Juror entered juryroom.)

THE COURT: Good morning. Are you our Juror No.

10?

A JUROR: Yes -- I'm 28.

THE COURT: You're 28. Okay. Thank you. We're going to excuse you from service on this jury. Thank you very much for being here and being willing to serve, but you're excused and free to go.

A JUROR: Thank you, Your Honor. Appreciate it.

THE COURT: Thank you.

(Juror left courtroom.)

* * *

(Juror entered juryroom.)

THE DEPUTY CLERK: Does it matter which order?

THE COURT: No.

(Juror entered juryroom.)

THE COURT: Good morning. Can you hear me okay?

A JUROR: Yes.

THE COURT: What is your juror number?

A JUROR: 19.

THE COURT: 19. Okay. You can leave it on if you want. We are going to excuse you from serving on this jury. I just wanted to thank you for being willing to serve. And you are free to go.

1 A JUROR: You're welcome.

2 THE COURT: Thank you.

3 (Juror left courtroom.)

4 * * *

5 (Juror entered juryroom.)

6 THE COURT: Good morning.

7 A JUROR: Good morning.

8 THE COURT: What is your juror number, please?

9 A JUROR: 16.

10 THE COURT: 16. Thank you. We're going to
11 excuse you from serving on the jury. Thank you very much
12 for being willing to serve and for being here, but you are
13 free to go.

14 A JUROR: All right. Thank you.

15 THE COURT: Thank you.

16 (Juror left courtroom.)

17 * * *

18 (Juror entered juryroom.)

19 THE COURT: Good morning. Are you Juror No. 10?

20 A JUROR: Yes, sir.

21 THE COURT: Okay. We are going to excuse you
22 from serving on the jury. Thank you for being here, for
23 being willing to serve, but you are free to go.

24 A JUROR: Okay. Thank you very much.

25 THE COURT: Thank you.

1 (Juror left courtroom.)

2 * * *

3 (Juror entered juryroom.)

4 THE COURT: All right. Good morning. If you
5 don't mind coming forward through those doors.

6 A JUROR: Yes.

7 THE COURT: And do you mind taking your mask off
8 for our discussion?

9 A JUROR: Oh, no.

10 THE COURT: You're okay with that? Thank you.

11 Are you Juror No. 1?

12 A JUROR: Yes, sir.

13 THE COURT: Congratulations.

14 Did you have any "yes" answers to my questions,
15 do you remember?

16 A JUROR: Just one. I believe.

17 THE COURT: Okay. Can you come a little bit
18 closer so I can be sure to hear you?

19 Do you remember what it was?

20 A JUROR: The family member who have been
21 incarcerated.

22 THE COURT: Okay.

23 A JUROR: I didn't know if juvenile, if that
24 counted, but my son was incarcerate.

25 THE COURT: Your son was.

1 A JUROR: Um-hmm.

2 THE COURT: Okay. Is that currently ongoing?

3 A JUROR: No, he was 16. And he was released
4 like 10 years ago.

5 THE COURT: Okay. Is there anything about your
6 son's experience and what you know about it that would make
7 it difficult for you to be fair and impartial in a criminal
8 case here?

9 A JUROR: No, sir. It wasn't even in the same
10 realm as this situation.

11 THE COURT: Okay. Do you have any other
12 concerns about serving on this jury?

13 A JUROR: No, sir.

14 THE COURT: No. Is there any questions from the
15 government?

16 MS. WELSH: No, Your Honor.

17 THE COURT: Any questions from the defense?

18 MS. CHAVAR: No, Your Honor.

19 THE COURT: Okay. All right. So we're going to
20 need you back here at 1:00 o'clock today for the next step
21 in the jury selection process. You are to report to the
22 jury assembly room where I think you started this morning on
23 the third floor, but you are free until 1:00 o'clock.

24 A JUROR: Okay. Thank you.

25 THE COURT: Thank you.

1 A JUROR: Um-hmm.

2 (Juror left courtroom.)

3 * * *

4 (Juror entered juryroom.)

5 THE COURT: Good morning. If you don't mind
6 coming forward through those doors.

7 Are you Juror No. 2?

8 A JUROR: Yes.

9 THE COURT: Okay. Do you mind coming closer so
10 we can be sure to hear each other?

11 Do you mind taking your mask off?

12 A JUROR: Oh, sure.

13 THE COURT: Thank you. And do you recall if you
14 had any "yes" answers to my questions?

15 A JUROR: Just the one. When I was a teenager,
16 I was in treatment.

17 THE COURT: Okay.

18 A JUROR: But that was a long time ago.

19 THE COURT: Okay. Some years ago.

20 A JUROR: (Nodding yes.)

21 THE COURT: Do you think that experience would
22 make it difficult for you to be a fair and impartial juror
23 in a case involving allegations about drugs?

24 A JUROR: Oh, no. Not at all.

25 THE COURT: Any other "yes" answers or concerns?

1 A JUROR: That was the only one.

2 THE COURT: Okay. Any questions from the
3 government?

4 MS. WELSH: No, Your Honor.

5 THE COURT: From the defendant?

6 MS. CHAVAR: No, Your Honor.

7 THE COURT: All right. We're going to need you
8 back at 1:00 o'clock to continue with this process. You are
9 free until 1:00, but at 1:00 o'clock, please report down to
10 the third floor where you started this morning. Okay?

11 A JUROR: Okay. Thank you.

12 THE COURT: Thank you.

13 (Juror left courtroom.)

14 * * *

15 (Juror entered juryroom.)

16 THE COURT: Good morning. If you don't mind
17 coming forward through those doors.

18 Are you Juror No. 3?

19 A JUROR: Yes, I am.

20 THE COURT: Okay. Do you mind taking your mask
21 off for our discussion?

22 Thank you.

23 Do you recall did you have any "yes" answers to
24 my questions?

25 A JUROR: I did not.

1 THE COURT: Okay. Anything you wanted to talk
2 about? Any concerns about serving on this jury?

3 A JUROR: No.

4 THE COURT: No. Okay. Any questions from the
5 government?

6 MS. WELSH: No, Your Honor.

7 THE COURT: From the defense?

8 MS. CHAVAR: No, Your Honor.

9 THE COURT: Okay. So we're going to need you
10 back here at 1:00 p.m. You are free until 1:00 p.m., but
11 please report to the third floor of the jury assembly room
12 at 1:00 o'clock. Okay?

13 A JUROR: All right.

14 THE COURT: Thank you.

15 (Juror left courtroom.)

16 * * *

17 (Juror entered juryroom.)

18 THE COURT: Good morning. If you don't mind
19 coming forward through the doors.

20 And are you our Juror No. 4?

21 A JUROR: Yes.

22 THE COURT: Do you mind taking your mask off for
23 our discussion?

24 Thank you.

25 Do you remember if you had any "yes" answers to

1 my questions.

2 A JUROR: I did.

3 THE COURT: You did. Okay. Did you recall what
4 they were?

5 A JUROR: I recall two. One was has a family
6 member ever been a victim of a crime.

7 THE COURT: Okay.

8 A JUROR: Answered affirmatively to that.

9 And also question about giving weight to
10 information provided by law enforcement.

11 THE COURT: Okay. I'm sorry to have to ask you,
12 but can you give me some general ideas of who in your family
13 was a victim of a crime and roughly when that was?

14 A JUROR: It's remote. My sister was robbed
15 when I was with her. That's many years ago. Probably 10 or
16 12 years or more ago my car was stolen and I had to appear
17 in juvenile court, et cetera.

18 THE COURT: Okay. Is there anything about your
19 experience as a victim, and your sister, that you think
20 would make it hard for you to be fair and impartial and
21 mature in a criminal case?

22 THE JURORS: I do not.

23 THE COURT: You don't think that would be a
24 problem for you?

25 A JUROR: No.

1 THE COURT: Okay. And what about your views of
2 law enforcement and their testimony?

3 A JUROR: There was a time when I was working in
4 a hospital in Philadelphia. The hospital was very closely
5 aligned with their own police force that I worked very
6 closely with. So I had a lot of insight into the work that
7 they were doing. And then, you know, established
8 relationships with them, working relationships.

9 THE COURT: So at least with that law
10 enforcement entity, you came to grow comfortable with them?

11 A JUROR: Yes.

12 THE COURT: And would tend to believe those
13 folks --

14 A JUROR: Yes.

15 THE COURT: -- is that right? Do you think that
16 will extend to other law enforcement agencies and agents
17 that might appear at this trial?

18 A JUROR: I do believe that that is my opinion,
19 yes.

20 THE COURT: That are you --

21 A JUROR: I'm more likely to give weight to
22 their -- what they offer.

23 THE COURT: Simply because they're from law
24 enforcement.

25 A JUROR: I would say, yes.

1 THE COURT: Okay. Anything else you answered
2 yes to or you wanted to raise with me?

3 A JUROR: No.

4 THE COURT: No. Any questions from the
5 government?

6 MS. WELSH: No questions, Your Honor.

7 THE COURT: Any questions from the defense?

8 MS. CHAVAR: No, Your Honor.

9 THE COURT: Okay. I'll ask you to stand outside
10 there for a moment and we'll bring you back here.

11 A JUROR: Sure.

12 (Juror left courtroom.)

13 THE COURT: Is there any motion from the
14 government to strike Juror No. 4?

15 MS. WELSH: Your Honor, I would say there will
16 be a motion to strike because she says she can't be fair,
17 essentially.

18 THE COURT: Would you oppose?

19 MS. WELSH: No, no.

20 THE COURT: She is just saying she would not
21 oppose your motion.

22 MS. CHAVAR: Yes. And I would agree with that.
23 Thank you.

24 THE COURT: I will grant the unopposed motion to
25 strike Juror No. 4 for cause. Let's bring her back in,

1 please.

2 All right. //, we're going to excuse you
3 from any further obligation to serve on this jury. Thank
4 you for being willing to serve and for being here. You are
5 free to go.

6 A JUROR: Thank you.

7 THE COURT: Okay. Bye-bye.

8 (Juror left courtroom.)

9 * * *

10 (Juror entered juryroom.)

11 THE COURT: Good morning. If you don't mind
12 coming forward through those doors.

13 And would you be okay with taking your mask off
14 for this discussion?

15 A JUROR: (Nodding yes.)

16 THE COURT: Thank you. Are you Juror No. 5?

17 A JUROR: Yes.

18 THE COURT: Did you have any "yes" answers to my
19 questions?

20 A JUROR: I believe so, yes.

21 THE COURT: Do you remember either the number or
22 the nature --

23 A JUROR: The knowing anyone in rehab.

24 THE COURT: Okay.

25 A JUROR: And the hardship of I'm a single

1 parent.

2 THE COURT: Okay. So somebody you know has been
3 or is in rehab, some type of drug rehab?

4 A JUROR: Uh-huh.

5 THE COURT: And that is a yes for the court
6 reporter?

7 A JUROR: Yes.

8 THE COURT: Thank you. Is that an ongoing
9 situation or in the past?

10 A JUROR: Ongoing.

11 THE COURT: Okay. Do you think that that might
12 make it difficult for you to be fair and impartial in a drug
13 related case?

14 A JUROR: I would say no.

15 THE COURT: No, okay. And what about hardship,
16 you said you are a single parent?

17 A JUROR: Single parent, yes, and I'm not being
18 paid as I'm here.

19 THE COURT: Okay. What type of work do you do?

20 A JUROR: Construction. Heavy construction.

21 THE COURT: Okay. Would you be planning to work
22 next week if you weren't on this jury?

23 A JUROR: (Nodding yes.) Yes.

24 THE COURT: Yes. And I think you are saying you
25 don't get paid if you don't show up to work?

1 A JUROR: Right.

2 THE COURT: Okay. And what about you have a
3 child, how old?

4 A JUROR: 14 and 16-year-old.

5 THE COURT: Okay.

6 A JUROR: Not driving, 16.

7 THE COURT: Not driving.

8 A JUROR: Yes, Christmas, he will be driving.

9 THE COURT: An important distinction. So
10 what -- are there any other arrangements possible or what
11 would happen with them, you think, if you weren't there next
12 week.

13 A JUROR: Depending upon what time I got out of
14 here, I would be -- I would have to find out something for
15 them after school.

16 THE COURT: You will probably not get out here
17 until about five, and if I am right, you live in Dagsboro.

18 And that is what a two hour drive.

19 A JUROR: Yep. (Nodding yes.)

20 THE COURT: Let's me see if the lawyers have any
21 questions for you.

22 Any questions from the government?

23 MS. WELSH: I do have one question.

24 So I think the question was phrased for yourself
25 or someone that you know been in rehabilitation.

1 Who was the person?

2 A JUROR: I'm sorry?

3 MS. WELSH: Who was the person?

4 A JUROR: It's a co-worker that I have.

5 Actually, my owner's son. He is ongoing in and out of
6 rehab.

7 MS. WELSH: Okay.

8 THE COURT: Any questions from the defense?

9 MS. CHAVAR: Can I just follow that with the use
10 of an illegal drug?

11 A JUROR: He is on opioids.

12 MS. CHAVAR: Okay.

13 And you say that you are scheduled. Do you have
14 work next week?

15 A JUROR: Yes.

16 MS. CHAVAR: Okay. Thank you.

17 THE COURT: Okay. Let me ask you just to wait
18 outside that door there for me and we'll bring you back
19 momentarily.

20 (Juror left courtroom.)

21 THE COURT: What is the government's position on
22 Juror No. 5?

23 MS. WELSH: We don't have a motion, Your
24 Honoring.

25 THE COURT: All right. Ms. Chavar?

1 MS. CHAVAR: Your Honor, I think he does have a
2 hardship. Construction jobs are there when they are there.
3 He is a single parent. He says he has work next week. He
4 doesn't get paid, he doesn't have vacation or sick pay. He
5 has two children he is supporting. I think that is a
6 hardship.

7 THE COURT: Does the government oppose that
8 motion?

9 MS. WELSH: Your Honor, the concern is that if
10 someone, you know, isn't salaried, we can't sort of exclude
11 anybody who is not getting paid if they're not working. So
12 I do understand that it certainly presents some level of
13 hardship to him but I -- we do oppose the motion.

14 THE COURT: Okay. I'm going to strike this
15 Juror No. 5 for the hardship. It's a combination of
16 reasons. The two children. The two hour drive. He is
17 going to have to leave presumably before they get ready to
18 go to school to be here with us at 9:00 o'clock and get home
19 probably after dark next week, and that he won't be getting
20 paid.

21 I'm going to -- altogether that convinces me it
22 would be too much of a hardship to ask him to serve on this
23 jury. So I'm going to strike Juror No. 5. Bring him in.

24 (Juror entered juryroom.)

25 THE COURT: //, thank you. I'm going

1 to excuse you from serving on this jury. But thank you for
2 being willing to serve. And good luck to you.

3 A JUROR: Thank you very much.

4 THE COURT: Thank you.

5 (Juror left courtroom.)

6 * * *

7 (The juror entered the courtroom.)

8 THE COURT: Good morning. If you don't mind
9 coming forward through the doors. Thank you.

10 Are you Juror No. 6?

11 A JUROR: Yes.

12 THE COURT: Do you mind taking your mask off for
13 our discussion?

14 A JUROR: No.

15 THE COURT: Thank you. Do you remember if you
16 had any -- I'm sorry. Do you remember if you had any "yes"
17 answers to my questions?

18 A JUROR: No, I did not. Well, yeah. About
19 family members with rehab thing.

20 THE COURT: Okay. Do you mind coming a little
21 bit closer so I'm sure to hear you? Thank you.

22 A JUROR: Yes.

23 THE COURT: I'm sorry, but I think you said some
24 family members have had rehab experience?

25 A JUROR: Yes.

1 THE COURT: Thank you. Is that an ongoing
2 experience?

3 A JUROR: No.

4 THE COURT: About how long ago?

5 A JUROR: About five years ago.

6 THE COURT: Okay. And could you tell us who it
7 was?

8 A JUROR: My son.

9 THE COURT: Your son?

10 A JUROR: Mm-hmm.

11 THE COURT: Okay. And was it an illegal
12 substance?

13 A JUROR: Drugs and alcohol.

14 THE COURT: Drugs and alcohol?

15 A JUROR: Yes.

16 THE COURT: Okay. All right. Do you think
17 that that might make it difficult for you to sit on a
18 jury?

19 A JUROR: No.

20 THE COURT: Okay. Anything else you answered
21 yes to?

22 A JUROR: No.

23 THE COURT: No. Any questions from the
24 government?

25 MS. WELSH: No, Your Honor.

1 THE COURT: From the defense?

2 MS. CHAVAR: No, Your Honor.

3 THE COURT: Okay. We're going to need you back
4 here at 1:00 o'clock.

5 A JUROR: Okay.

6 THE COURT: Today. You're free until
7 1:00 o'clock, but please report back to the third floor to
8 the jury assembly room.

9 A JUROR: Third floor?

10 THE COURT: Third floor at 1:00 o'clock.

11 A JUROR: Okay.

12 THE COURT: Thank you very much.

13 A JUROR: Mm-hmm.

14 (The juror left the courtroom.)

15 * * *

16 (The juror entered the courtroom.)

17 THE COURT: Good morning. Would you mind come
18 forward through those doors there?

19 Are you Juror No. 7?

20 A JUROR: Yes.

21 THE COURT: Do you mind coming closer?

22 A JUROR: All right.

23 THE COURT: Thank you. Do you mind taking your
24 mask off for our discussion?

25 A JUROR: I'm fine.

1 THE COURT: Do you remember, did you have any
2 "yes" answers to any of my questions?

3 A JUROR: So the one about the business. My dad
4 owned a business before.

5 THE COURT: Okay.

6 A JUROR: It was a little confused about that
7 question, honestly.

8 THE COURT: That's fine. Does he currently own
9 or operate a business?

10 A JUROR: No, not anymore. He's working --
11 well, not that it matters. But, yes, he doesn't own it
12 anymore.

13 THE COURT: All right. What kind of business
14 was it?

15 A JUROR: He was an electrician.

16 THE COURT: Okay. Other "yes" answers?

17 A JUROR: If I had to be honest with you, just
18 the nature of the crime itself, being drug-related kind of
19 has me on edge a little bit, to be honest with you.

20 Just all the things I've read about, you know,
21 people being sent for the equivalent of a life sentence, or
22 not a life sentence, but 20 years for nonviolent
23 drug-related crimes has honestly got me really anxious.

24 I'm a little nervous, to be honest with you,
25 about having to be a juror for this crime, but --

1 THE COURT: Okay. Thank you for sharing that
2 with us.

3 You heard in my question if you were on the
4 jury, you would hear much more extensive questions, but that
5 jurors are to put out of their minds any concerns about what
6 may happen to the defendant, for instance, if he were found
7 guilty.

8 A JUROR: Yes, I understand.

9 THE COURT: Do you think you would be able to do
10 that or do you think you would not be able to do that?

11 A JUROR: Like I said, it got me anxious. I
12 would definitely try my hardest, but I -- I mean, I would be
13 lying if I said I wasn't nervous about it.

14 THE COURT: Sure. Were there other things you
15 said yes to?

16 A JUROR: I believe that's it.

17 THE COURT: Okay. Any questions from the
18 government?

19 MS. WELSH: No, Your Honor.

20 THE COURT: Any questions from the defense?

21 MS. CHAVAR: Do I understand correctly --

22 THE COURT: I can't hear you.

23 MS. CHAVAR: Do I understand you correctly that
24 it makes you -- the potential of a high sentence makes you
25 nervous to serve on a jury if you find them guilty?

1 A JUROR: Yes. I believe -- I'm sorry. You
2 said --

3 MS. CHAVAR: Maybe I can make it easier. What
4 is it that makes you nervous about it?

5 A JUROR: I just feel like being -- like, having
6 to be somebody who ends up doing that to somebody makes me
7 really nervous, about the issue.

8 MS. CHAVAR: Okay.

9 A JUROR: Like, I don't really know how to
10 explain it. It was kind of wracking at me ever since I went
11 into the room.

12 I know it has been kind of an issue, you know,
13 we incarcerate people for just the equivalent of offenses,
14 nonviolent crimes, drug-related. I just -- I'm sure that,
15 you know, it doesn't have to happen all the time. I'm sure
16 it doesn't happen all the time, but just the matter that it
17 could gets me, you know, riled up -- or not riled up, but
18 nervous.

19 MS. CHAVAR: Okay. And that is exclusive to
20 drug-related crimes?

21 A JUROR: Yes.

22 MS. CHAVAR: All right. Thank you.

23 THE COURT: Thank you. I'm going to ask you to
24 wait outside for a moment. We'll bring you back in.

25 A JUROR: Thank you.

1 (The juror left the courtroom.)

2 THE COURT: Any motion from the government?

3 MS. WELSH: Yes, Your Honor. We would like to
4 strike this juror. He's admitting he won't be able to
5 follow the instructions.

6 THE COURT: Ms. Chavar, what's your position?

7 MS. CHAVAR: I think he's saying it would make
8 him nervous, but he didn't say he couldn't do it.

9 THE COURT: Okay. I'm going to grant the
10 government's motion to strike Juror No. 7. He repeatedly
11 said he would be nervous and anxious, and he physically
12 appeared nervous and anxious and shaky and in response to
13 Ms. Chavar's question, acknowledged really this type of
14 charge that he thinks this case is going to be about, that
15 leads to his anxiety, and I think he will be able to serve
16 on another potential jury, so I'm excusing him. We'll bring
17 him back for a moment.

18 (The juror entered the courtroom.)

19 THE COURT: //, I'm going to excuse you
20 from serving on this jury. Thank you very much for being
21 willing to serve, but you're free to go and have a good rest
22 of the day.

23 A JUROR: Thank you.

24 THE COURT: Thank you.

25 (The juror left the courtroom.)

* * *

(The juror entered the courtroom.)

THE COURT: Good morning. If you don't mind coming forward through those doors.

Are you ?

A JUROR: Yes.

THE COURT: Okay. Our Juror No. 8.

Do you mind taking your face covering off?

Thank you.

Do you recall if you had any "yes" answers to my questions?

A JUROR: I did.

THE COURT: Okay. Do you remember what question?

A JUROR: I do have a paid vacation that I leave on next Thursday that is nonrefundable.

THE COURT: Okay.

A JUROR: My ex-husband worked for Homeland Security. I think that was a question.

And I worked for an establishment, I'm not sure if I had contact with ATF or any of those. I know DAR and ABC was involved. I'm not sure of the exact agency.

THE COURT: Okay. Where is your vacation to next Thursday?

A JUROR: Gatlinburg, Tennessee.

1 THE COURT: Okay. You already paid for?

2 A JUROR: Log cabin rental, yes.

3 THE COURT: You would not be able to get that
4 money back?

5 A JUROR: It's nonrefundable.

6 THE COURT: And your ex-husband, I think you
7 said, what did he do?

8 A JUROR: He worked for Homeland Security at
9 Dover Air Force base.

10 THE COURT: Okay.

11 A JUROR: He's in anti-terrorism now. He's not
12 in that position now. He did work there.

13 THE COURT: Do you think you could be fair and
14 impartial in evaluating the testimony of law enforcement
15 witnesses?

16 A JUROR: I don't know. I was married to a cop
17 for 25 years. I kind of go back and forth on whether I
18 would be -- I don't know.

19 THE COURT: Okay. All right. Thank you. I'm
20 going to ask you to wait outside for a moment, please.

21 A JUROR: Okay.

22 (The juror left the courtroom.)

23 THE COURT: All right. Would there be any
24 objection to striking Juror No. 8 based on the hardship as
25 well as the possibility that she may not be fair and

1 impartial?

2 MS. WELSH: No.

3 THE COURT: Any objection?

4 MS. WELSH: No.

5 MS. CHAVAR: No, Your Honor.

6 THE COURT: I'm going to strike Juror No. 8.

7 Let's bring her back briefly.

8 (The juror entered the courtroom.)

9 THE COURT: All right, ///////////////. Thank you
10 very much for willing to serve. I'm going to excuse you
11 from serving on this jury. You're free to go. Thank you
12 very much.

13 A JUROR: Thank you.

14 (The juror left the courtroom.)

15 * * *

16 (The juror entered the courtroom.)

17 THE COURT: Good morning. If you don't mind
18 coming forward through those doors, that's great. Are you
19 Juror No. 9?

20 A JUROR: Yes.

21 THE COURT: Okay. Do you mind taking the mask
22 off for our discussion? Thank you very much.

23 Do you remember, did you have any "yes" answers
24 to my questions?

25 A JUROR: Just that one, yes.

1 THE COURT: Let me have you come closer so I can
2 hear you.

3 A JUROR: Yes.

4 THE COURT: So you had one yes answer?

5 A JUROR: Yes. Ministry.

6 THE COURT: I'm afraid I can't hear you. Could
7 I have you come a little closer?

8 A JUROR: Okay.

9 THE COURT: I'm sorry. I can't hear you.

10 A JUROR: I'm in ministry, my husband.

11 THE COURT: You're a minister?

12 A JUROR: You asked about business.

13 THE COURT: Yes. Do you own or operate your own
14 business?

15 A JUROR: In ministry. We have a ministry.

16 THE COURT: In ministry?

17 A JUROR: My husband used to own and sell
18 electronics. That was business you mentioned. That's the
19 only thing.

20 THE COURT: I'm so sorry. I can't, I cannot
21 hear you.

22 A JUROR: I'm sorry.

23 THE COURT: Do you mind coming a little bit
24 closer? All right. There was something about electronics
25 as well?

1 A JUROR: Yeah. My husband used to run a
2 business selling electronics.

3 THE COURT: Your husband used to sell
4 electronics?

5 A JUROR: Yes.

6 THE COURT: And have his own business?

7 A JUROR: Yes, but not anymore. Currently, a
8 ministry.

9 THE COURT: Now, is he a minister or you are?

10 A JUROR: Both of us are.

11 THE COURT: Both of you?

12 A JUROR: Yes.

13 THE COURT: All right. Anything else you
14 answered yes to?

15 A JUROR: No.

16 THE COURT: Any questions from the government?

17 MS. WELSH: No, Your Honor.

18 THE COURT: Any questions from the defense?

19 MS. CHAVAR: Only because I could not hear, I
20 believe you said you and your husband own and operate your
21 own business?

22 A JUROR: Ministry. We're in ministry, yes.

23 MS. CHAVAR: Okay. Thank you.

24 THE COURT: Okay. I'm going to ask you to wait
25 outside for a moment, please.

1 A JUROR: Okay.

2 (The juror left the courtroom.)

3 THE COURT: Any motions from the government?

4 MS. WELSH: No.

5 THE COURT: From the defense, any motion?

6 MS. CHAVAR: No, Your Honor.

7 THE COURT: Okay. Let's bring her back.

8 (The juror entered the courtroom.)

9 THE COURT: All right. Thank you very much.

10 We're going to need you back here at 1:00 o'clock. If you
11 can report back to the third floor at 1:00 p.m., but you are
12 free until 1:00 o'clock. Understood?

13 A JUROR: Okay. Thank you.

14 THE COURT: Thank you. See you later.

15 (The juror left the courtroom.)

16 (The juror entered the courtroom.)

17 THE COURT: Good morning. If you don't mind
18 coming forward through those doors there. Are you ///

19 ///?

20 A JUROR: Yes.

21 THE COURT: Our Juror No. 11.

22 Do you mind taking your mask off for a moment?

23 Thanks very much.

24 Do you remember, did you have any "yes" answers
25 to my questions?

1 A JUROR: I don't believe so. That was a lot of
2 questions, sir.

3 THE COURT: It was a lot of questions, but did
4 you have any concerns you wanted to share with us about
5 serving on this jury?

6 A JUROR: No.

7 THE COURT: No?

8 A JUROR: I don't believe so.

9 THE COURT: Okay. All right. Any questions
10 from the government?

11 MS. WELSH: No.

12 THE COURT: From the defense?

13 MS. CHAVAR: No, Your Honor.

14 THE COURT: Okay. So we're going to need you
15 back here at 1:00 o'clock.

16 A JUROR: Okay.

17 THE COURT: You are free until 1:00, but
18 please report back to the third floor at 1:00 o'clock. All
19 right?

20 A JUROR: Okay.

21 THE COURT: Okay. We'll see you later. Thank
22 you.

23 A JUROR: Thank you.

24 (The juror left the courtroom.)

25 * * *

1 (The juror entered the courtroom.)

2 THE COURT: Good morning. Do you mind coming
3 through those doors? Great.

4 Are you ?

5 A JUROR: Yes.

6 THE COURT: Okay. Do you mind taking your mask
7 off for our discussion? Thank you.

8 I believe you are Juror No. 12?

9 A JUROR: Yes.

10 THE COURT: Do you recall, did you have any
11 "yes" answers to my questions?

12 A JUROR: Yes.

13 THE COURT: And do you remember what they were?

14 A JUROR: The one in reference to I believe a
15 family member being convicted.

16 THE COURT: Okay. There's a family member that
17 has been convicted?

18 **A JUROR: Yes.**

19 THE COURT: Can you tell us who it was?

20 A JUROR: It's my son. It was about five years
21 ago. It was an accidental shooting of a friend. He had a
22 legal gun in the house and it went off.

23 THE COURT: Okay. And do you think anything
24 about that process that your son went through would make it
25 difficult for you to be a fair and impartial juror in a

1 criminal case?

2 A JUROR: No. I think it was reasonable.

3 THE COURT: Anything else that you might have
4 answered yes to?

5 A JUROR: No.

6 THE COURT: No? Okay. Any questions from the
7 government?

8 MS. WELSH: Did your experience, your son's
9 experience in the criminal justice system leave you with any
10 feelings about law enforcement or the system that you need
11 to tell us about?

12 A JUROR: No. I think it was handled fairly
13 based on the circumstances and the outcome.

14 MS. WELSH: Nothing further.

15 THE COURT: Any questions from the defense?

16 MS. CHAVAR: No, Your Honor.

17 THE COURT: Okay. All right. I'm going to ask
18 you to wait outside just for a moment, please.

19 (The juror left the courtroom.)

20 THE COURT: Any motion from the government?

21 MS. WELSH: None, Your Honor.

22 THE COURT: From the defense?

23 MS. CHAVAR: No, Your Honor.

24 THE COURT: Okay. Let's bring her back.

25 (The juror entered the courtroom.)

1 THE COURT: All right. //, we'll need
2 you back here at 1:00 p.m. Please report back to the third
3 floor at 1:00 p.m., but you are free until 1:00 o'clock.
4 Okay?

5 A JUROR: Yes.

6 THE COURT: Thank you.

7 (The juror left the courtroom.)

8 * * *

9 (The juror entered the courtroom.)

10 THE COURT: Good morning. Would you mind coming
11 forward through those doors? Are you //?

12 A JUROR: Yes, sir.

13 THE COURT: Okay. And do you mind taking the
14 mask off? Thank you.

15 Do you remember, did you have any "yes" answers
16 to my questions?

17 A JUROR: I did.

18 THE COURT: Okay.

19 A JUROR: My sister is currently addicted to
20 drugs and she's in the hospital right now.

21 THE COURT: She's in the hospital?

22 A JUROR: So as soon as said that, yeah. I'm
23 trying to --

24 THE COURT: I'm sorry. I'm sorry.

25 Okay. Do you think that that would make it

1 difficult for you to be a fair and impartial juror in a case
2 related to drugs?

3 A JUROR: Yes. And this wouldn't exclude me
4 from doing my jury duty again. I just know that I couldn't
5 be fair.

6 THE COURT: You don't think you could sit
7 through a week of testimony related to drug dealing.
8 Correct?

9 A JUROR: No, sir.

10 THE COURT: Okay. All right. Well, I'm going
11 to excuse you from serving on this jury. I hope your sister
12 recovers.

13 A JUROR: Thank you.

14 THE COURT: You're free to go.

15 A JUROR: Thank you.

16 THE COURT: Thank you.

17 (The juror left the courtroom.)

18 * * *

19 (Juror left courtroom.)

20 THE COURT: So I have stricken Juror No. 13.

21 She was, as we all saw, in tears just trying to tell us
22 about her concern and I don't think she could be a fair and
23 impartial juror in a case like this rights now. So 13 is
24 stricken.

25 Bring in the next one.

1 (Juror entered juryroom.)

2 THE COURT: Good morning. If you don't mind
3 coming forward through those doors.

4 Are you ///?

5 A JUROR: Good morning. Yes.

6 THE COURT: Do up mind taking the mask off for
7 our discussion?

8 A JUROR: I'm sorry?

9 THE COURT: Do you mind taking off your mask for
10 our discussion?

11 A JUROR: Oh, sure. Thank you. Appreciate it.

12 THE COURT: Sure. Do you recall if you had a
13 "yes" answer to any of my many questions?

14 A JUROR: Yes, sir.

15 THE COURT: Okay. If you remember any of them,
16 please tell me.

17 A JUROR: Specifically, I have two kids who have
18 both been involved with drug problems. One is just being
19 released from jail and the other one is being rehabilitated.

20 THE COURT: Okay.

21 A JUROR: Three years ago.

22 THE COURT: Okay. One just got released from
23 jail. What kind of charges was he or she convicted of?

24 A JUROR: Drug charges.

25 THE COURT: Okay. Do you think with those

1 experiences you could be a fair and impartial juror in a
2 case involving allegations related to drugs?

3 A JUROR: I don't think so.

4 THE COURT: You don't think you could be fair?

5 A JUROR: I don't think I can be fair or unfair.
6 It was very traumatic for me to have -- I'm a practicing Zen
7 Buddhist, monastically trained, but to have two kids, for
8 perhaps perhaps circumstantial reasons, turn out to be not
9 law-abiding citizens.

10 THE COURT: Okay. And were there other things
11 you answered yes to, do you remember?

12 A JUROR: The other one is the hardship. I'm an
13 independent contractor, a licensed massage therapist myself.
14 I recently divorced. I need the work.

15 THE COURT: And when you don't work and don't
16 have your appointments, you don't make money, I take it?

17 THE JURORS: That is correct, sir.

18 THE COURT: Okay. All right. Is there anything
19 else you answered yes to? No?

20 A JUROR: No.

21 THE COURT: No. All right. Let me have you
22 just wait outside for a moment.

23 A JUROR: Thank you.

24 THE COURT: Thank you.

25 (Juror left courtroom.)

1 THE COURT: Any objection from the government to
2 striking Juror No. 14?

3 MS. WELSH: No objection, Your Honor.

4 THE COURT: Ms. Chavar, any objection?

5 MS. CHAVAR: No objection.

6 THE COURT: We'll bring him back in.

7 (Juror entered juryroom.)

8 THE COURT: //, I'm going to excuse
9 you from serving on this jury at this time. So you are free
10 to go. Thank you very much.

11 A JUROR: Thank you.

12 THE COURT: Thank you.

13 (Juror left courtroom.)

14 * * *

15 (Juror entered juryroom.)

16 THE COURT: Good morning. If you don't mind
17 coming forward through those doors.

18 Are you //?

19 A JUROR: Yes, sir.

20 THE COURT: Okay. Do you mind taking the mask
21 off?

22 A JUROR: Sure.

23 THE COURT: Thank you. Do you recall if you had
24 any "yes" answers to my questions?

25 A JUROR: No, sir.

1 THE COURT: You had no "yes" answers?

2 A JUROR: No, sir.

3 THE COURT: Okay. Anything else you wanted to
4 raise with me?

5 A JUROR: No.

6 THE COURT: No. Any questions from the
7 government?

8 MS. WELSH: None, Your Honor.

9 THE COURT: From the defense?

10 MS. CHAVAR: No, Your Honor.

11 THE COURT: Okay. Mr. Diego, I'll need you back
12 here at 1:00 o'clock today. You can report back to the
13 third floor at 1:00 o'clock. That would be great. But you
14 are free until then.

15 A JUROR: Thank you.

16 THE COURT: Okay. Thank you.

17 (Juror left courtroom.)

18 * * *

19 (Juror entered juryroom.)

20 THE COURT: Good morning. If you could come
21 forward through the doors for me. Thank you.

22 Are you ///?

23 A JUROR: I am.

24 THE COURT: Do you mind taking the mask off?

25 A JUROR: No.

1 THE COURT: Do you recall, did you have any
2 "yes" answers to my questions?

3 A JUROR: Yes.

4 THE COURT: Okay. Do you remember what any of
5 them were?

6 A JUROR: A family member in drug rehab.

7 THE COURT: Okay. I'm sorry to have to ask, but
8 which family member?

9 A JUROR: A niece of mine.

10 THE COURT: Okay. Is she currently in rehab?

11 A JUROR: No, she is doing -- doing very well.

12 THE COURT: Good. Glad to hear that.

13 Well, did -- illegal drugs or was it alcohol?

14 A JUROR: Opioids.

15 THE COURT: Opioids. Okay.

16 Do you think anything about that experience
17 would make it hard for you to be a fair and impartial juror
18 in a drug related case?

19 A JUROR: No.

20 THE COURT: No. Is there anything else you
21 answered yes to?

22 A JUROR: About a -- self-employed or owning a
23 business. I have a business with three partners. I'm not
24 sure if that counts.

25 THE COURT: Sure, that counts. What kind of

1 business is it?

2 A JUROR: Advertising.

3 THE COURT: Okay. And that's what you currently
4 partly own and operate?

5 A JUROR: Correct.

6 THE COURT: About how long have you had that
7 business?

8 A JUROR: I've been with the company 36 years,
9 but I've been partner for about 12, so ...

10 THE COURT: Okay. And do you have a role in
11 running it or --

12 A JUROR: Yes, correct. Yes.

13 THE COURT: All right. Anything else you
14 answered "yes" to?

15 A JUROR: No.

16 THE COURT: Okay. Any questions from the
17 government?

18 MS. WELSH: No.

19 THE COURT: No. From the defense, any
20 questions?

21 MS. CHAVAR: No, Your Honor.

22 THE COURT: Okay. We're going to need you back
23 here at 1:00 o'clock --

24 A JUROR: Okay.

25 THE COURT: -- for the next step in this

1 process. If you can report back to the third floor at 1:00
2 o'clock, that would be great.

3 A JUROR: Okay.

4 THE COURT: You are free until then.

5 A JUROR: Okay.

6 THE COURT: Okay. Thank you.

7 (Juror left courtroom.)

8 * * *

9 (Juror entered juryroom.)

10 THE COURT: Good morning. Do you mind coming
11 forward through the doors.

12 Are you // // // // //?

13 A JUROR: Yes.

14 THE COURT: Okay. Do you mind taking the mask
15 off?

16 A JUROR: No.

17 THE COURT: Okay. Great. Thank you.

18 Do you remember, did you have any "yes" answers
19 to my questions?

20 A JUROR: Well, there was one that wasn't really
21 on there is about, it's kind of embarrassing, it's personal.

22 THE COURT: Do you want to just talk to me
23 separately?

24 A JUROR: Could I.

25 THE COURT: Sure: No, that's fine. Do you

1 mind -- usually I have the court reporter take down what you
2 say.

3 A JUROR: That's fine.

4 THE COURT: But I can seal that.

5 A JUROR: Yes.

6 THE COURT: Okay. Let's just have you come over
7 to this area for me.

8 A JUROR: Okay.

9 (Sidebar conference under seal; bound separately.)

10 THE COURT: So the juror had shared some
11 information with me about buy she may also have some other
12 "yes" answers which she thought she could probably talk
13 about in front of everyone. So we're going to try to figure
14 that out. I think you figured out it was possibly 25 or 23,
15 was it?

16 A JUROR: 25 or 7. 25 or 7.

17 THE COURT: 27 is about defendant's right to
18 remain silent throughout trial.

19 A JUROR: No.

20 THE COURT: No? 25 was about a defendant is
21 presumed innocent unless the government comes forward with
22 evidence beyond a reasonable doubt.

23 Do you think those were the questions you
24 answered "yes" to?

25 A JUROR: It doesn't sound like those were the

1 ones.

2 THE COURT: Do you remember anything about what
3 the concern was? And I can run through some of these again,
4 if you would like.

5 A JUROR: Yes. I don't think so.

6 THE COURT: You don't remember?

7 A JUROR: I don't, I don't think there were any
8 others.

9 THE COURT: Okay.

10 A JUROR: That was mainly the one I talked to
11 you about.

12 THE COURT: Right. Okay. Let me have you step
13 outside just for a moment, okay? Thank you.

14 (Juror left courtroom.)

15 THE COURT: I am going strike Juror No. 18. She
16 discussed essentially a medical related issue, and I think
17 it would make it difficult, if not impossible for her to
18 give the trial the attention that it needs. I don't think
19 you need the details of it but that's my finding so I am
20 going strike Juror No. 18. We'll bring her back in.

21 (Juror entered juryroom.)

22 THE COURT: //, thank you very much. I'm
23 going to excuse you from serving on this jury.

24 A JUROR: Okay.

25 THE COURT: But thank you for being willing to

1 serve and be well.

2 A JUROR: Thank you.

3 THE COURT: Bye-bye.

4 (Juror left courtroom.)

5 * * *

6 (Juror entered juryroom.)

7 THE COURT: Good morning. Yes. If you don't

8 mind coming forward through the doors there.

9 Are you \\\\\\\\\\\\\\\\\\\/?

10 A JUROR: Yes, I am.

11 THE COURT: Do you mind taking your mask off?

12 A JUROR: I do not mind.

13 THE COURT: Okay. Thank you.

14 Do you remember if you had any "yes" answers?

15 A JUROR: Yes, I do.

16 THE COURT: Okay. Any chance you remember what

17 they may be?

18 A JUROR: I can't remember the number, but.

19 THE COURT: That's fine.

20 A JUROR: I have served on a jury in a civic

21 trial.

22 THE COURT: In a civil.

23 A JUROR: Civil case, yes.

24 THE COURT: Okay.

25 A JUROR: Also there was another question about

1 do I know a close relative who has been addicted to drugs
2 and I do. My father, my grandfather and my uncle.

3 THE COURT: Okay. Are the three of them
4 recovered or ...

5 A JUROR: Two of them are now deceased. My
6 uncle, my grandfather. My father is in and out.

7 THE COURT: Okay. I'm sorry about all that. Do
8 you think that you could be a fair and impartial juror in a
9 case that relates to allegations relating to drugs?

10 A JUROR: To be honest, I'm not sure. I'll try
11 my best but I can't say.

12 THE COURT: And are you able to say what makes
13 you hesitant? What do you think might prevent you from
14 being fair and impartial as you sit here and hear evidence
15 about alleged drug related transactions, et cetera?

16 A JUROR: Well, just speaking right now, I can't
17 say, but I guess after hearing the evidence and things, I
18 think I just feel a certain kind of way about drugs, period,
19 just what they have done to my family. So I don't, I'm not
20 sure I can really give a fair verdict.

21 THE COURT: Okay. Okay. You have been on a
22 jury before. You said a civil jury, right?

23 A JUROR: Um-hmm. Yes.

24 THE COURT: Is that here in Delaware?

25 A JUROR: Yes.

1 THE COURT: Was it -- do you recall, was it here
2 in federal court or was it state court?

3 A JUROR: No, it was state.

4 THE COURT: Do you remember about what kind of
5 case it was, what kind of charges it involved?

6 A JUROR: It involved traffic charges. I can't
7 remember.

8 THE COURT: Did that jury reach a verdict?

9 A JUROR: Yes.

10 THE COURT: Do you remember what it was?

11 A JUROR: It was guilty.

12 THE COURT: Okay. Do you think there was
13 anything about that process that would impact your ability
14 to be a fair and impartial juror here?

15 A JUROR: No.

16 THE COURT: Do you think you had any other "yes"
17 answers?

18 A JUROR: No, not that I can recall.

19 THE COURT: Let's see if there are any other
20 questions for you.

21 Any questions from the government?

22 MS. WELSH: I don't.

23 THE COURT: Any questions from the defense?

24 MS. CHAVAR: No. No, Your Honor.

25 THE COURT: Okay. I'm going to ask you just to

1 step outside for a moment for me. Thank you.

2 A JUROR: Um-hmm.

3 (Juror left courtroom.)

4 THE COURT: Any motion from the government?

5 MS. WELSH: Your Honor, I'm thinking it's a
6 defense motion here that we would not oppose.

7 THE COURT: Would not oppose.

8 Ms. Chavar, do you have a motion?

9 MS. CHAVAR: Yes, Your Honor. I will move to
10 strike for cause.

11 THE COURT: All right. Well, I will grant the
12 unopposed motion to strike for cause given what she had said
13 about the impact of drugs on her family and how it might
14 affect her ability to be fair and impartial.

15 Let's bring her back, please.

16 (Juror entered the courtroom.)

17 THE COURT: //, I'm going to thank you
18 but excuse you from this jury. Thank you for being willing
19 to serve.

20 A JUROR: Thank you.

21 THE COURT: Thank you.

22 (Juror left courtroom.)

23 * * *

24 (Juror entered juryroom.)

25 THE COURT: Good morning. If you don't mind

1 coming through those doors.

2 Are you // // // // //?

3 A JUROR: I am.

4 THE COURT: Do you mind taking the mask off?

5 A JUROR: No.

6 THE COURT: Thank you. Do you remember if you
7 had any "yes" answers to my questions?

8 A JUROR: I had a couple of answers that I
9 wasn't sure of.

10 THE COURT: Okay.

11 A JUROR: I have worked at the Wal-Mart in New
12 Castle for about 22 years and during that time, I worked as
13 the asset protection manager dealing with loss prevention
14 and then the Delaware State Police but was not aware of any
15 of the people mentioned.

16 THE COURT: Okay. Do you think that you could
17 be fair and impartial in evaluating testimony from law
18 enforcement witnesses?

19 A JUROR: Yeah.

20 THE COURT: Okay. Are there other things that
21 you may have answered "yes" to?

22 A JUROR: No.

23 THE COURT: That was it?

24 A JUROR: Yes.

25 THE COURT: Okay. Any questions?

1 MS. WELSH: None from us.

2 THE COURT: Any questions?

3 MS. CHAVAR: No, Your Honor.

4 THE COURT: All right. We'll need you back here
5 at 1:00 o'clock. If you could report to the third floor at
6 1:00 o'clock, but you are free until 1:00 o'clock.

7 A JUROR: Okay. Thank you.

8 THE COURT: Thank you very much.

9 (Juror left courtroom.)

10 * * *

11 (Juror entered juryroom.)

12 THE COURT: Good morning. Would you mind coming
13 forward through the doors. Are you // // // // //?

14 A JUROR: Yes.

15 THE COURT: Do you mind taking the mask off?

16 A JUROR: No, I don't mind.

17 THE COURT: Thank you. Do you remember, did you
18 have any "yes" answers to my questions?

19 A JUROR: Yes.

20 THE COURT: And do you remember what they were?

21 A JUROR: Family member with an addiction.

22 THE COURT: Okay. I'm sorry to have to ask, but
23 which family member is it?

24 A JUROR: Sister-in-law.

25 THE COURT: Okay. And is that a current

1 situation?

2 A JUROR: Yes.

3 THE COURT: Okay. And is it an illegal drug or
4 legal drug?

5 A JUROR: No. Legal.

6 THE COURT: Which kind of drug is she dealing
7 with?

8 A JUROR: Prescription medication.

9 THE COURT: I'm sorry about that. Do you think
10 that would affect your ability to be a fair and impartial
11 juror in this case given what I've told you about the type
12 of allegations here?

13 A JUROR: No.

14 THE COURT: Okay. Were there other things you
15 answered yes to?

16 A JUROR: No.

17 THE COURT: That was it?

18 A JUROR: Yes.

19 THE COURT: Any questions?

20 MS. WELSH: No, Your Honor.

21 THE COURT: Any questions?

22 MS. CHAVAR: No, Your Honor.

23 THE COURT: All right. We're going to need you
24 back here at 1:00 o'clock. If you could report to the third
25 floor at 1:00 o'clock, but you are free until 1:00.

1 A JUROR: All right.

2 THE COURT: Thank you very much.

3 (The juror left the courtroom.)

4 * * *

5 (The juror entered the courtroom.)

6 THE COURT: Good morning. If you don't mind
7 coming forward here. What is your juror number, please?

8 A JUROR: 23.

9 THE COURT: 23. Do you mind taking the mask
10 off?

11 A JUROR: Yeah.

12 THE COURT: // Right?

13 A JUROR: Stay right here?

14 THE COURT: Yes. As long as you can hear me
15 okay.

16 A JUROR: Yeah.

17 THE COURT: Do you remember, did you have any
18 "yes" answers?

19 A JUROR: No.

20 THE COURT: No? Any concerns you had or issues
21 you want to raise with me?

22 A JUROR: I just have ADD, so it's hard for me
23 to focus a little bit, but that's all.

24 THE COURT: Were you able to focus and follow on
25 what I was reading to you earlier today?

25 | what I was reading to you earlier today?

1 A JUROR: Yes, very much. Yes.

2 THE COURT: Do you have concerns about your
3 ability to follow, you know, a week-long trial and the
4 evidence that's going to be presented to you?

5 A JUROR: I'm not sure.

6 THE COURT: I didn't hear that.

7 A JUROR: I said I'm not sure. For the most
8 part, I can focus for the majority of the trial, yeah.

9 THE COURT: We do take breaks.

10 A JUROR: Okay.

11 THE COURT: At least three times every day and
12 we can take more frequent breaks if a juror needs it. These
13 are the jury seats. That's where you're seated.

14 A JUROR: Okay.

15 THE COURT: I will need you to raise your hand
16 if you are losing focus and just need a break.

17 A JUROR: Okay.

18 THE COURT: Would you feel comfortable doing
19 that?

20 A JUROR: Yeah, that's no problem.

21 THE COURT: Anything else you answered yes to or
22 anything else you wanted to raise? Sorry.

23 A JUROR: The marijuana one, I guess. My stance
24 on that is I don't find any big deal about the possession,
25 but the selling of it, I find that's a problem, but that's I

1 think the only one I kind of had a yes to.

2 THE COURT: All right. Do you think you could
3 follow my instructions on the law even if you disagree with
4 them?

5 A JUROR: Yes.

6 THE COURT: Okay. All right. Let me see if
7 anyone else has questions for you.

8 Anything from the government?

9 MS. WELSH: No, Your Honor.

10 THE COURT: From the defense?

11 A JUROR: I thought they were talking to me.

12 THE COURT: No. They were telling me they had
13 no questions.

14 A JUROR: Oh, okay.

15 THE COURT: Let me ask the defense lawyers. Any
16 questions for Mr. Jones?

17 MS. CHAVAR: One moment, Your Honor.

18 (Pause.)

19 MS. CHAVAR: No, Your Honor.

20 THE COURT: No questions?

21 MS. CHAVAR: No questions.

22 THE COURT: Can I have you wait outside?

23 A JUROR: Okay.

24 THE COURT: Just wait outside for a moment. We
25 will bring you back.

1 (The juror left the courtroom.)

2 THE COURT: Any motion from the government?

3 MS. WELSH: No, Your Honor.

4 THE COURT: Any motion from the defense?

5 MS. CHAVAR: No, Your Honor.

6 THE COURT: Okay. Let's bring him back in.

7 (The juror entered the courtroom.)

8 THE COURT: All right. //, I'm going to
9 need you back here at 1:00 p.m. --

10 A JUROR: Okay.

11 THE COURT: -- today. Report to the third floor
12 at 1:00 o'clock, please.

13 A JUROR: Yes.

14 THE COURT: And then we'll have you back here
15 after that.

16 A JUROR: All right.

17 THE COURT: Thank you very much.

18 A JUROR: Yeah, no problem.

19 (The juror left the courtroom.)

20 * * *

21 (The juror entered the courtroom.)

22 THE COURT: Good morning. If you don't mind
23 coming through those doors.

24 A JUROR: Sure.

25 THE COURT: Are you //?

1 A JUROR: Yes. You're close enough.

2 THE COURT: Close enough? Okay.

3 THE JUROR: Where do you want me?

4 THE COURT: You've heard worse, I hope. Right
5 there.

6 A JUROR: Okay.

7 THE COURT: Do you mind taking your mask off?

8 A JUROR: Oh, God. No, thank you.

9 THE COURT: Do you recall having a yes answer?

10 A JUROR: What were the ones about the New
11 Castle County Police? That was the only one that like stuck
12 out to me.

13 THE COURT: Sure. Have you had any dealings
14 with the New Castle County Police?

15 A JUROR: It was like a couple years back when
16 my brother was having custody issues with his daughter.

17 THE COURT: Okay.

18 A JUROR: But that's about it.

19 THE COURT: If you saw a New Castle County
20 police employee or officer testifying at this trial, do you
21 think you would be fair and impartial in evaluating their
22 testimony?

23 A JUROR: Yeah.

24 THE COURT: Anything else you said yes to?

25 A JUROR: That was the only one that, like,

1 stuck out to me.

2 THE COURT: Any questions?

3 MS. WELSH: No.

4 THE COURT: Any questions?

5 MS. CHAVAR: No, Your Honor.

6 THE COURT: So you're free until 1:00 o'clock.

7 A JUROR: All right.

8 THE COURT: I will need you back here at
9 1:00 o'clock. If you could report to the third floor, we'll
10 give you directions on what to do.

11 A JUROR: Okay.

12 THE COURT: Thank you.

13 A JUROR: You're welcome.

14 (The juror left the courtroom.)

15 * * *

16 (The juror entered the courtroom.)

17 THE COURT: Good morning. If you would come
18 forward through those doors, that would be great.

19 Are you ?

20 A JUROR: Yes, I am.

21 THE COURT: If you don't mind taking the mask
22 off.

23 A JUROR: Sure.

24 THE COURT: Can I have you come a little bit
25 closer?

1 A JUROR: Yes.

2 THE COURT: That way I can be sure I can hear
3 you.

4 Do you recall if you have any "yes" answers?

5 A JUROR: Yes, I do.

6 THE COURT: What may they be?

7 A JUROR: I don't know the exact phrase. It was
8 I would believe a police officer, if he testified.

9 THE COURT: Okay. So do you think you would
10 give more weight to a law enforcement officer simply because
11 he or she is a law enforcement officer?

12 A JUROR: Yes, I would.

13 THE COURT: So even if I instruct you, you have
14 to treat law enforcement and non-law enforcement witnesses
15 the same and try and fairly and impartially evaluate their
16 testimony, you think you would have trouble following that
17 instruction?

18 A JUROR: I think I would have a bias.

19 THE COURT: Okay.

20 A JUROR: I honestly do.

21 THE COURT: All right. Are there other things
22 you answered yes to?

23 A JUROR: Anything else?

24 THE COURT: Yes. Was there anything else you
25 answered yes to?

1 A JUROR: Was it about knowing law enforcement
2 or was it just particular to this?

3 THE COURT: No. Have you had interactions
4 though with law enforcement?

5 A JUROR: Yes. For 38 years, I've been married
6 to a police officer.

7 THE COURT: I see. Okay. All right. Anything
8 else you answered yes to?

9 A JUROR: No. That was it.

10 THE COURT: Okay. Any questions from the
11 government?

12 MS. WELSH: No questions.

13 THE COURT: Any questions from the defense?

14 MS. CHAVAR: No, Your Honor.

15 THE COURT: Let me have you step outside for a
16 moment, please.

17 A JUROR: Sure.

18 (The juror left the courtroom.)

19 THE COURT: Ms. Chavar, do you want to move to
20 strike this juror?

21 MS. CHAVAR: I do, Your Honor.

22 THE COURT: Any objection?

23 MS. WELSH: None, Your Honor.

24 THE COURT: All right. So we'll strike Juror
25 No. 26 based on her answers.

1 about?

2 A JUROR: No.

3 THE COURT: Okay. Any questions?

4 MS. WELSH: No.

5 THE COURT: Any questions?

6 MS. CHAVAR: No, Your Honor.

7 THE COURT: Okay. So we'll need you back here
8 at 1:00 o'clock today. If you could report to the third
9 floor at 1:00 o'clock today, you'll be given further
10 direction at that time. Okay?

11 A JUROR: All right.

12 THE COURT: All right. You are free to go until
13 1:00. Thanks.

14 A JUROR: Thank you.

15 (The juror left the courtroom.)

16 * * *

17 (The juror entered the courtroom.)

18 THE COURT: Good morning. If you could come
19 through the doors, please. Are you ///?

20 A JUROR: Yes.

21 THE COURT: Do you mind taking the mask off? Is
22 that okay?

23 A JUROR: That's fine.

24 THE COURT: Thank you. Do you remember to
25 having "yes" answers to my questions?

1 A JUROR: Yes, I did.

2 THE COURT: Do you remember what any of them
3 were?

4 A JUROR: Well, I know one is my -- guy I went
5 to elementary school with, he, right after graduation, he
6 died of a drug overdose.

7 THE COURT: Sorry.

8 A JUROR: So -- and then I think you said if I
9 knew anybody that is in, like, law enforcement.

10 THE COURT: Yes.

11 A JUROR: My cousin's husband is a retired
12 narcotics officer from Pennsylvania.

13 THE COURT: Okay. Have you ever talked to him
14 about what he does?

15 A JUROR: Yeah, yeah. During family events, you
16 know.

17 THE COURT: Sure.

18 A JUROR: Not in depth, but, yeah.

19 THE COURT: Do you think you could be fair and
20 impartial if you hear the testimony of law enforcement
21 witnesses who do that kind of work?

22 A JUROR: I assume so, yes.

23 THE COURT: All right. And this high school
24 friend, do you think what happened to him -- I think you
25 said it was a him -- would that make it difficult for you to

1 be a fair and impartial juror in a case that relates to drug
2 issues?

3 A JUROR: It could be, yeah.

4 THE COURT: And what is your concern there? How
5 might it affect you, do you think?

6 A JUROR: Just that it was so easy for him to
7 get the drugs, that if it would be more difficult for him to
8 get it, maybe he wouldn't have succumbed to that.

9 THE COURT: Okay. Other questions you answered
10 yes to?

11 A JUROR: You said about a cough. I do have a
12 little bit of a cough.

13 THE COURT: You do have a cough?

14 A JUROR: Yes.

15 THE COURT: That's a new cough?

16 A JUROR: About a week-and-a-half.

17 THE COURT: Okay.

18 A JUROR: I assume it's allergies.

19 THE COURT: Right. Okay. So that's something
20 you had --

21 A JUROR: I get every year.

22 THE COURT: Every year around this time?

23 A JUROR: Usually spring and fall.

24 THE COURT: Okay. Other things you want to tell
25 us?

1 A JUROR: Just my brother is a lawyer in
2 Pennsylvania, but other than that...

3 THE COURT: Okay. All right. Let me see if the
4 lawyers here have any questions for you.

5 Anything from the government?

6 MS. WELSH: Would you be able to follow the
7 Judge's instructions about being impartial and listening to
8 the evidence in making a decision based on what you hear?

9 A JUROR: Probably, yes, I would say.

10 THE COURT: Anything else?

11 MS. WELSH: No.

12 THE COURT: Ms. Chavar, any questions?

13 MS. CHAVAR: Yes. Hi.

14 A JUROR: Hi.

15 MS. CHAVAR: I think you said that you
16 assumed --

17 THE COURT: Ms. Chavar, if you could just speak
18 up. I can't hear you.

19 MS. CHAVAR: I understand. Thank you.

20 I think you said that you assumed that you could
21 be impartial if you heard the testimony of a police officer,
22 or you assumed you wouldn't give it more weight. Is that
23 correct?

24 A JUROR: Yeah. I don't think I would give it
25 any more weight.

1 MS. CHAVAR: Okay. But you said you had a good
2 friend or it's your husband's good friend who is a police
3 officer?

4 A JUROR: My husband's cousin is a retired narc
5 officer from Pennsylvania.

6 MS. CHAVAR: A narcotics?

7 A JUROR: Yes.

8 MS. CHAVAR: Undercover?

9 A JUROR: Yes.

10 MS. CHAVAR: All right.

11 A JUROR: He did Wilmington and Philadelphia.

12 MS. CHAVAR: Tough area. And how long have you
13 known him?

14 A JUROR: Ever since he has been married.
15 Probably 30 years, at least.

16 MS. CHAVAR: And I would assume when you get
17 together, things would come up. He might have shared
18 stories about --

19 A JUROR: Yeah. Nothing in depth, no names or
20 anything like that.

21 MS. CHAVAR: Of course.

22 A JUROR: Yes. Just different things that came
23 up, yes.

24 MS. CHAVAR: Did you ever have any reason to
25 think he was exaggerating his stories?

1 A JUROR: I don't think so, no.

2 MS. CHAVAR: You believed him?

3 A JUROR: Yeah, I believed him.

4 MS. CHAVAR: So if you heard a police officer's
5 testimony similar to maybe something that your husband's
6 cousin said, you probably would be likely to believe that
7 testimony?

8 A JUROR: I mean, I know I believe my husband's
9 cousin because I knew him. I don't know if I would believe
10 somebody I didn't know as well.

11 MS. CHAVAR: You're not positive though?

12 A JUROR: No, not a hundred percent.

13 MS. CHAVAR: That's fair. No, that's fair.

14 A JUROR: Okay.

15 MS. CHAVAR: That's a fair answer.

16 A JUROR: Okay.

17 MS. CHAVAR: Thank you.

18 A JUROR: Okay.

19 THE COURT: Thank you. Let me have you wait
20 outside for a moment and we'll bring you back.

21 A JUROR: Okay.

22 THE COURT: Thank you.

23 A JUROR: Thank you.

24 (The juror left the courtroom.)

25 THE COURT: What is the government's position on

1 Ms. Kauffman?

2 MS. WELSH: We don't have a motion and we would
3 oppose a motion, actually.

4 THE COURT: Ms. Chavar?

5 MS. CHAVAR: Your Honor, I move to strike this
6 juror. I think that she wants to think that she'll be fair
7 and impartial, and she may be, but she's not sure.

8 And I am concerned about the, you know, the
9 person in her life who died of an overdose of drugs, and
10 that in combination with this longtime friendship with a
11 narcotics officer, I move to strike for cause.

12 THE COURT: Ms. Welsh, did you want to be heard
13 on that?

14 MS. WELSH: Your Honor, yes. I think when the
15 potential juror was questioned, she said that she believed
16 her cousin. She clarified that she believed her cousin's
17 husband because there was another officer she would evaluate
18 fairly. I don't think it's appropriate to strike her.

19 THE COURT: Give me a second.

20 Ms. Chavar, you had something that you wanted to
21 add?

22 MS. CHAVAR: Your Honor, I think the larger
23 issue really is that my client, the person that sold the
24 drugs to the person in her life that she lost.

25 THE COURT: All right. I think it's a difficult

* * *

(The juror entered the courtroom.)

THE COURT: Good morning. If you don't mind coming through those doors there.

Are you ///////////////?

A JUROR: Yes.

THE COURT: Okay. I see you have a Giants mask. I'm sorry about the game last night. Do you mind taking the mask off?

A JUROR: Yes.

THE COURT: Do you recall if you had any "yes" answers?

A JUROR: No.

THE COURT: You had no "yes" answers?

A JUROR: No.

THE COURT: Any concern about serving on this jury?

A JUROR: No.

THE COURT: No?

A JUROR: This is my first time.

THE COURT: Your first time?

A JUROR: Yeah.

THE COURT: Okay. Any questions?

MS. WELSH: None, Your Honor.

THE COURT: Any questions?

1 MS. CHAVAR: No, Your Honor.

2 THE COURT: All right. So we'll need you back
3 here at 1:00 o'clock.

4 A JUROR: Okay.

5 THE COURT: If you could report back to the
6 third floor the a 1:00 o'clock, but you are free until 1:00.

7 A JUROR: Okay.

8 THE COURT: Thanks very much.

9 A JUROR: Thank you.

10 (Juror left courtroom.)

11 * * *

12 (Juror entered juryroom.)

13 THE COURT: Good morning. Could you come
14 forward through the doors? Thank you.

15 Are you ///?

16 A JUROR: Yes.

17 THE COURT: Do you mind taking your mask off?

18 A JUROR: No, not at all.

19 THE COURT: Thank you. Do you remember if you
20 had any "yes" answers to my questions?

21 A JUROR: Yes, I think I do have a couple yeses.
22 You said about law enforcement?

23 THE COURT: Yes. Do you have some familiarity
24 with law enforcement?

25 A JUROR: Well, I have two cousins that are

1 police officers.

2 THE COURT: Two cousins. Here in Delaware?

3 A JUROR: No, Central Pennsylvania and Virginia.

4 THE COURT: Okay. Do you think given that
5 familiarity it would be difficult for you to be fair and
6 impartial in evaluating the testimony of law enforcement
7 witnesses in this trial.

8 A JUROR: Not at all.

9 THE COURT: No?

10 A JUROR: No.

11 THE COURT: Okay. Other things you answered
12 "yes" to?

13 A JUROR: You said substance abuse?

14 THE COURT: Yes. Any familiarity with substance
15 abuse?

16 A JUROR: Cousin, an older cousin that lives in
17 Philadelphia and a brother-in-law.

18 THE COURT: Okay. And if you know, what
19 substances did they have issues with?

20 A JUROR: Brother-in-law, I think it was
21 methamphetamine. The cousin I don't know because I'm not
22 really that close to him.

23 THE COURT: Do you know, are those ongoing
24 situations for those two individual?

25 A JUROR: No, not at all. Not any more.

1 THE COURT: And do you think you could be fair
2 and impartial in a trial that will involve evidence about
3 drugs?

4 A JUROR: Yeah, absolutely.

5 THE COURT: Okay. Other things you answered
6 "yes" to?

7 A JUROR: No.

8 THE COURT: No. All right. Any questions?

9 A JUROR: No.

10 THE COURT: Any questions, Ms. Chavar?

11 MS. CHAVAR: No, Your Honor.

12 THE COURT: Okay. So we're going to need you
13 back here at 1:00 o'clock. You are free until 1:00 o'clock
14 but please return to the third floor of the building at 1:00
15 o'clock.

16 A JUROR: Okay. Thank you.

17 THE COURT: Thank you.

18 (Juror left courtroom.)

19 * * *

20 (Juror entered juryroom.)

21 THE COURT: Good morning. If you don't mind
22 coming forward through those doors. Yes, you can come
23 forward through the doors there.

24 A JUROR: Okay.

25 THE COURT: Yes. If you don't mind, so we can

1 make sure we can all hear each other.

2 Are you // // // // //?

3 A JUROR: Yes.

4 THE COURT: Do you mind taking your mask off?

5 Thank you.

6 Do you remember if you had any "yes" answers?

7 A JUROR: The only other thing I did have on the
8 five days that could be an inconvenience for me because
9 this, the 22nd I have to have a procedure done on my neck.

10 THE COURT: Okay. That would be Wednesday, I
11 believe.

12 A JUROR: That is correct, yes.

13 THE COURT: Okay. What time of day is that
14 scheduled for?

15 A JUROR: That is for 8:30 in the morning.

16 THE COURT: Okay. And you live in Sussex
17 County. Is that where the procedure is scheduled for?

18 A JUROR: It's actually in Berlin, Maryland.

19 THE COURT: Okay. Is this the kind of thing
20 where you'd be available after that procedure or are you
21 going to be out of --

22 A JUROR: I'm hoping I should be able to be out
23 of that.

24 THE COURT: Okay. So what time do you think you
25 could be here on Wednesday assuming all goes as it should

1 and you drive up here?

2 A JUROR: My procedure is supposed to be at 8:45
3 in the morning, and it takes me two and-a-half hours to ride
4 there.

5 THE COURT: And the procedure, any idea how long
6 that is supposed to be?

7 A JUROR: It should only be about half hour.

8 THE COURT: Okay. Other than that, anything you
9 answered "yes" to?

10 A JUROR: The only thing I have is sometimes
11 I have a -- I have to use the bathroom probably every
12 90 minutes.

13 THE COURT: Okay. If our breaks were not that
14 frequent and they could be that frequent, these seats are
15 where the jury sits. If you would just raise your hand or
16 indicate otherwise you need a break, I would take a break
17 immediately.

18 A JUROR: Okay.

19 THE COURT: Do you think you would feel
20 comfortable doing that?

21 A JUROR: Oh yeah. Yes. That's my only two
22 things I have.

23 THE COURT: Okay. So no other "yes" answers?

24 A JUROR: No.

25 THE COURT: Okay. Any questions from the

1 government?

2 MS. WELSH: No questions.

3 THE COURT: Any questions from the defense?

4 MS. CHAVAR: No.

5 THE COURT: All right. Let me have you wait
6 outside for a moment, please.

7 A JUROR: Okay.

8 THE COURT: If you wait outside for a moment,
9 please. Thank you.

10 (Juror left courtroom.)

11 THE COURT: It seems if we have this juror
12 who -- we would probably not be able to be together
13 Wednesday morning. What does the government think about
14 that?

15 MS. WELSH: Your Honor, we may choose not to
16 have this juror through our peremptory process but I don't
17 think there is a real request for him to be excused for
18 hardship.

19 THE COURT: So no motion?

20 MS. WELSH: No motion, no.

21 THE COURT: And from the defense?

22 MS. CHAVAR: No motion.

23 THE COURT: All right. Let's bring him back in.

24 (Juror entered courtroom.)

25 THE COURT: //, we're going to need you

1 back here at 1:00 o'clock today.

2 A JUROR: Okay.

3 THE COURT: So if you could report to the third
4 floor at 1:00 o'clock, that would be great but you are free
5 until 1:00, okay?

6 A JUROR: Okay.

7 THE COURT: Thanks very much.

8 A JUROR: Thank you.

9 (Juror left courtroom.)

10 * * *

11 (Juror entered juryroom.)

12 THE COURT: Good afternoon. If you don't mind
13 coming forward through those doors.

14 Are you ///?

15 A JUROR: Yes, sir.

16 THE COURT: Okay. Do you mind taking the mask
17 off for our conversation?

18 A JUROR: No.

19 THE COURT: And do you remember if you had any
20 "yes" answers?

21 A JUROR: I had questions about a couple of
22 them. I don't know if it disqualifies me.

23 THE COURT: Sure. Do you remember any of the
24 topics that you wanted to discuss?

25 A JUROR: You mentioned something about police

1 officers.

2 THE COURT: Sure. Do you --

3 A JUROR: I didn't know whether my being a
4 volunteer fireman for 40 years makes a difference.

5 THE COURT: I don't know if it makes a
6 difference but thank you for that, and it was something we
7 wanted to hear about.

8 Do you think -- you would hear from various law
9 enforcement officers if you are on this jury. Do you think
10 you could fairly and impartially evaluate testimony from law
11 enforcement officers?

12 A JUROR: Of course, yes.

13 THE COURT: You think you could?

14 A JUROR: Yeah.

15 THE COURT: Okay.

16 A JUROR: I mean I know a lot of them, that's
17 why, through my association at the fire department.

18 THE COURT: Right. That's why I'm asking.
19 Because you interact with a lot of law enforcement, you
20 might hear testimony from a lot of law enforcement witnesses
21 at this trial. Will you be able to evaluate this testimony
22 just as you would someone who is not in law enforcement?

23 A JUROR: I think so.

24 THE COURT: Okay. All right. What else if you
25 recall did you answer "yes" to?

1 A JUROR: I honestly can't remember all the
2 questions.

3 THE COURT: Okay. I know it was a lot of
4 questions.

5 Do you remember just general topics?

6 A JUROR: I don't really have any concerns
7 except for the hardship thing and the job and making money
8 and all that, a doctor appointment next week. That sort of
9 thing.

10 THE COURT: Okay. Let's talk about those
11 things.

12 What kind of work do you do?

13 A JUROR: I'm a sales rep.

14 THE COURT: Okay.

15 A JUROR: I work for -- and that's it. I'm on
16 commission. So when I'm here, I'm not making any money.

17 THE COURT: Right. And you would be planning to
18 be working and trying to make sales next week; correct?

19 A JUROR: Oh, yes.

20 THE COURT: Okay. And you have a doctor
21 appointment next week?

22 A JUROR: Well, that's the following week, but
23 next week I have an ultrasound that I have to go get on
24 Tuesday morning, early.

25 THE COURT: Tuesday morning.

1 A JUROR: Yeah.

2 THE COURT: And what time --

3 A JUROR: That's my only conflict really.

4 THE COURT: Okay. Do you know, is that here in
5 Wilmington?

6 A JUROR: Newark.

7 THE COURT: Newark. So if you are on the jury,
8 what time do you think you might be able to get here after
9 the ultrasound on Tuesday?

10 A JUROR: It usually goes pretty fast. First
11 thing in the morning. I'm usually out by 9:30, I guess.

12 THE COURT: You might be here by 10:00 or so.

13 A JUROR: Yeah.

14 THE COURT: All right. Well, with not being
15 able to do your work next week, do you think you would be
16 able to nonetheless focus and give this case the attention
17 it requires? Or would you be too worried about, you know,
18 I'm not making any money this week?

19 A JUROR: I could be objective, and you know, if
20 I'm here, but that's my -- that's just a concern I have.
21 That's all.

22 THE COURT: Understood. Okay. Do you think
23 there were other things that you answered "yes" to or had as
24 concerns?

25 A JUROR: I can't remember any.

1 THE COURT: I listed a bunch of names. Did you
2 know any of those people?

3 A JUROR: I know nobody involved in the trial or
4 any of the ...

5 THE COURT: I went through the rights that the
6 defendant has under the Constitution. Would you be able to
7 follow my instructions about those rights?

8 A JUROR: Yes.

9 THE COURT: You might hear from some witnesses
10 that have been convicted of crimes or have a plea bargain.
11 Do you have any concerns about that?

12 A JUROR: No.

13 THE COURT: No. Any concerns about the type
14 of prosecution from what I have told you, drug-related
15 prosecution?

16 A JUROR: No.

17 THE COURT: All right. Any questions from the
18 government?

19 MS. WELSH: No, Your Honor.

20 THE COURT: Any questions from the defense?

21 MS. CHAVAR: Where did you serve as a volunteer
22 fireman?

23 A JUROR: I was with the Mill Creek Fire Company
24 out on Kirkwood Highway.

25 MS. CHAVAR: Is that New Castle County?

1 A JUROR: Yes.

2 THE COURT REPORTER: I'm sorry. What was that
3 question again?

4 MS. CHAVAR: I asked where he served as a
5 volunteer fireman.

6 THE COURT: And she said, is that in New Castle
7 County.

8 MS. CHAVAR: And is that New Castle County?

9 THE COURT REPORTER: Thank you.

10 A JUROR: Actually, I'm retired. I don't know
11 if that makes a difference.

12 THE COURT: Thank you.

13 MS. CHAVAR: Well, thank you for doing that.
14 And can I ask you, I think you also said that in that
15 capacity, you, you came into contact with many police
16 officers or law enforcement.

17 A JUROR: Yeah. But there is some that are
18 members.

19 MS. CHAVAR: I see.

20 A JUROR: There is a police captain that is a
21 member of the fire company. I have known him for years.

22 MS. CHAVAR: You socialize with them or have you
23 socialized with them as well?

24 A JUROR: Not lately.

25 MS. CHAVAR: But you have?

1 A JUROR: In the past, of course.

2 MS. CHAVAR: Okay. And you wouldn't be more
3 likely -- or are you saying you would not be more likely to
4 believe them?

5 A JUROR: I tend to put weight behind an
6 investigating officer.

7 MS. CHAVAR: You do put weight behind that?

8 A JUROR: Yes. Yes.

9 MS. CHAVAR: Yeah. Okay. And that weight would
10 be in their favor, like truthful?

11 A JUROR: Well, I'm not -- it's not to the point
12 where I would lie about something just because I know a
13 police officer, but I do tend to give a lot of weight to
14 their -- what they say.

15 MS. CHAVAR: Okay. One moment, please.

16 (Ms. Chavar confers.)

17 MS. CHAVAR: Thank you.

18 THE COURT: Mr. Hubbard, if I instruct you that
19 you are to try your best to evaluate the testimony of a law
20 enforcement officer just as you tried your best to evaluate
21 the testimony of a non-law enforcement officer, do you think
22 you could follow that instruction or are you concerned that
23 you might not be able to?

24 A JUROR: I think so. Yes.

25 THE COURT: Okay. All right.

1 A JUROR: I'll do my best.

2 THE COURT: Thank you. All right. Let me
3 have you wait outside for us. We'll get up back here in a
4 moment.

5 (Juror left courtroom.)

6 THE COURT: Any motion from the government?

7 MS. WELSH: We don't have a motion, Your Honor.

8 THE COURT: All right. Ms. Chavar, any motion?

9 MS. CHAVAR: One moment.

10 Your Honor, I think that this juror is very
11 similar to Juror No. 29, who you ultimately struck due to
12 the recent cough. So I would move to strike for cause. I
13 don't think he was definitive that he could be fair and
14 impartial.

15 THE COURT: All right. Thank you.

16 The government's position?

17 MS. WELSH: Your Honor, this is indeed on the
18 line. I think maybe the safest thing is for us not to
19 oppose this one.

20 THE COURT: All right. Well, given that it's
21 not opposed, I will grant the motion and we'll strike Juror
22 No. 33. Let's bring him back, please.

23 (Juror entered courtroom.)

24 THE COURT: //, I'm excusing you
25 from serving on this jury. Thank you very much for your

1 willingness to serve but you are free to go. Thank you.

2 A JUROR: Thank you.

3 THE COURT: Okay.

4 (Juror left courtroom.)

5 * * *

6 (Juror entered juryroom.)

7 THE COURT: Please come forward through the
8 doors there.

9 Are you \\\

10 A JUROR: I am.

11 THE COURT: Okay. Do you mind taking the mask
12 off?

13 A JUROR: Yes.

14 THE COURT: Thank you. Do you recall if you had
15 any "yes" answers to my questions?

16 A JUROR: Just to the one that if me or my
17 family member have a business. My brother owns his own
18 business.

19 THE COURT: Okay.

20 A JUROR: But I don't have any relationship with
21 that.

22 THE COURT: Okay. You haven't worked for that
23 business?

24 A JUROR: No.

25 THE COURT: And you don't own a part of it or

1 anything?

2 A JUROR: No.

3 THE COURT: Is there anything else you answered
4 "yes" to?

5 A JUROR: No.

6 THE COURT: Okay. Any questions?

7 MS. WELSH: No, Your Honor.

8 THE COURT: Any questions?

9 MS. CHAVAR: No, Your Honor.

10 THE COURT: Okay. We'll need you back here a
11 1:00 o'clock.

12 A JUROR: Okay.

13 THE COURT: But please report to the third floor
14 at 1:00 o'clock, but you are free until then.

15 A JUROR: Okay. Thank you.

16 THE COURT: Thank you.

17 (Juror left courtroom.)

18 * * *

19 (Juror entered juryroom.)

20 THE COURT: Good afternoon. You can come
21 forward through the doors there, and you can take your mask
22 off if you are okay with that.

23 Do you recall -- you are Juror No. 35; correct?

24 A JUROR: That's correct, yup.

25 THE COURT: Do you have any "yes" answers if you

1 remember.

2 A JUROR: Yes, I do.

3 THE COURT: Do you remember what they were?

4 A JUROR: Yeah, convictions.

5 THE COURT: Convictions.

6 A JUROR: In my family.

7 THE COURT: Can you tell us who in your family?

8 A JUROR: Deceased now. It was my older

9 brother.

10 THE COURT: Okay. What kind of charge was it?

11 A JUROR: Drugs.

12 THE COURT: Okay. Drug dealing?

13 A JUROR: Pretty much, yes.

14 THE COURT: Of course. What kind of drugs, if

15 you know?

16 A JUROR: Methamphetamine.

17 THE COURT: About how long ago was all that.

18 A JUROR: Probably nineties.

19 THE COURT: Nineties?

20 A JUROR: Yeah.

21 THE COURT: Okay. Did you have any feeling
22 about how your brother was treated by the criminal justice
23 system?

24 A JUROR: Not really. I mean, it is what it is.

25 THE COURT: Do you think you could be a fair and

1 impartial juror in a case that alleges certain types of drug
2 dealing?

3 A JUROR: That's kind of -- I don't know.

4 THE COURT: Not sure.

5 A JUROR: No. Sorry about that.

6 THE COURT: Do you have a sense as to what might
7 make you unfair or how you might be unfair?

8 A JUROR: Just losing my brother, you know.

9 THE COURT: Just --

10 A JUROR: Just lost my brother, that's all.
11 Being convicted and him passing. That's all.

12 THE COURT: Okay. Is there anything else you
13 answered "yes" to?

14 A JUROR: (Shaking head no.) No.

15 THE COURT: No. Okay.

16 Any questions from the government?

17 MS. WELSH: No, Your Honor.

18 THE COURT: Any questions from the defense?

19 MS. CHAVAR: Just a few.

20 A JUROR: Okay.

21 MS. CHAVAR: You said you didn't think you could
22 be fair because of the situation with your brother?

23 A JUROR: Yes.

24 MS. CHAVAR: Do you mean fair as far as
25 prejudice against somebody accused?

1 A JUROR: No, I don't know. It's hard to ...

2 MS. CHAVAR: Do you think your brother was
3 treated fairly when he was accused and was going through the
4 Court?

5 A JUROR: The problem with him was he was set
6 up. He was set up.

7 MS. CHAVAR: I see.

8 A JUROR: That's all.

9 MS. CHAVAR: Okay. Thank you.

10 A JUROR: You're welcome.

11 THE COURT: Thank you. Can I have you wait
12 outside?

13 A JUROR: No problem.

14 THE COURT: Thank you.

15 (The juror left the courtroom.)

16 THE COURT: Does the government object to
17 striking this juror?

18 MS. WELSH: No, Your Honor.

19 THE COURT: Ms. Chavar, any objection to
20 striking this juror?

21 MS. CHAVAR: Your Honor, I don't -- I think
22 he's -- no objection.

23 THE COURT: All right. I'm going to strike
24 Juror 35. Honestly, I can't tell which way he might favor,
25 but I'm concerned. He's having understandably an emotional

1 reaction to our questions, too.

2 MS. CHAVAR: Right.

3 THE COURT: So I'm not sure that he can be fair
4 and impartial, and so I'm going to strike Juror 35. Let's
5 bring him back for a second.

6 (The juror entered the courtroom.)

7 THE COURT: //, thank you for being
8 willing to serve. I'm excusing you from serving on the
9 jury.

10 A JUROR: All right.

11 THE COURT: So you are free to go.

12 A JUROR: Thank you.

13 THE COURT: Thank you.

14 (The juror left the courtroom.)

15 * * *

16 (The juror entered the courtroom.)

17 THE COURT: Good morning. If you could come
18 forward through those doors.

19 Are you //?

20 A JUROR: I am.

21 THE COURT: Do you mind taking mask off?

22 A JUROR: Not at all.

23 THE COURT: You need to come forward so we can
24 make sure we can hear each other. I know it has been a
25 while.

1 Do you remember if you had any "yes" answers to
2 my questions?

3 A JUROR: I did not.

4 THE COURT: No "yes" answers?

5 A JUROR: No.

6 THE COURT: Any concerns about serving on this
7 jury?

8 A JUROR: No.

9 THE COURT: Any questions from the government?

10 MS. WELSH: No.

11 THE COURT: Any questions from the defendant?

12 MS. CHAVAR: No, Your Honor.

13 THE COURT: We need you back here at
14 1:00 o'clock. If you could come back to the third floor at
15 1:00 o'clock, we'll proceed from there.


16 A JUROR: Okay.

17 THE COURT: Thank you.

18 (The juror left the courtroom.)

19 * * *

20 (The juror entered the courtroom.)

21 THE COURT: Good afternoon. If you could come
22 forward through those doors. Are you ?

23 A JUROR: Yes.

24 THE COURT: Do you mind taking your mask off?

25 Thank you.

1 And do you remember if you had any "yes" answers
2 to my questions?

3 A JUROR: Yes.

4 THE COURT: Okay. Do you remember what any of
5 them might be?

6 A JUROR: I think it was a question referring to
7 are you self-employed or have you been self-employed.

8 THE COURT: Okay. Are you or have you been?

9 A JUROR: I have been.

10 THE COURT: All right. What kind of business
11 was it?

12 A JUROR: I owned a dental lab.

13 THE COURT: All right. About how long ago was
14 that?

15 A JUROR: It was five years ago.

16 THE COURT: Okay. Is it still operational?

17 A JUROR: I sold it.

18 THE COURT: You sold it. Okay.

19 Anything else you answered yes to?

20 A JUROR: No.

21 THE COURT: No. Okay. Any questions?

22 MS. WELSH: No, Your Honor.

23 THE COURT: Any questions?

24 MS. CHAVAR: No, Your Honor.

25 THE COURT: Okay. We'll need you back here at

1 1:00 o'clock. If you could go to the third floor at
2 1:00 o'clock, but you are free until 1:00.

3 A JUROR: All right. Thank you.

4 THE COURT: Thank you.

5 A JUROR: Am I allowed to leave the building?

6 THE COURT: You're allowed to leave, yes.

7 A JUROR: Okay.

8 THE COURT: Please be back at 1:00 o'clock.

9 A JUROR: Yes.

10 (The juror left the courtroom.)

11 * * *

12 (The juror entered the courtroom.)

13 THE COURT: Good afternoon. If you could come
14 through those doors. Are you //?

15 A JUROR: Yes, I am.

16 THE COURT: Do you mind taking your mask off?

17 A JUROR: Sure.

18 THE COURT: Do you recall if you had any "yes"
19 answers to my questions?

20 A JUROR: Yes. You asked had I had any dealings
21 with the County Police.

22 THE COURT: Yes.

23 A JUROR: I'm a criminal defense attorney in
24 Delaware. I work for the Public Defender's office.

25 I have a pending motion to suppress in a case

1 where the County Police have said things that aren't true
2 about my client that I have a video that shows that they do,
3 so I plan to go cross-examine them on that.

4 I probably had a hundred trials, maybe 25 jury
5 trials where I've had County Police. I've had situations
6 where I've fought for my clients and proved that the County
7 Police were lying.

8 So my life experience is that I've found County
9 Police to lie. I'm not sure if it's these officers that are
10 going to be here, if I would recognize them, but I don't
11 have a very good -- a positive view of what is in police
12 reports and what police do, particularly in drug cases.

13 THE COURT: Thank you.

14 A JUROR: I also have another positive answer if
15 you want to hear it.

16 THE COURT: I think we might get there.

17 A JUROR: Okay.

18 THE COURT: But I did list some names. I don't
19 think I associated the names with the particular police
20 force, but if you recognize any of them?

21 A JUROR: I didn't recognize those names.

22 THE COURT: Okay. So in all of that, are you
23 saying that you couldn't be a fair and impartial juror?

24 A JUROR: I think it would be great to be on a
25 jury, as a criminal defense attorney, to be able to be on a

1 jury, because I handle these exact same kind of cases, so I
2 think it would be an invaluable experience and I would do my
3 absolute best, but if I saw some inconsistencies in what
4 that police is saying from what I know from my experience, I
5 think that they cut corners, especially in drug cases. I
6 think they fudge stuff. Not I think -- I know for a fact
7 that they do and I've proven it in court.

8 THE COURT: Right.

9 A JUROR: I could actually bring a video in and
10 a police report. I could bring it in Monday and show you
11 how a County Police officer is lying.

12 THE COURT: No, that's fine. But you know from
13 your experience that each case turns on the specific
14 evidence and facts?

15 A JUROR: It does, it does.

16 THE COURT: So I'm trying to understand, are you
17 telling me you would not be able to apply a fair and
18 impartial judgment to the specific facts presented to you in
19 this case or you would be able to do that?

20 A JUROR: I would try, but now there's two
21 things here. One is my conscious effort would be to try to
22 do that, but I also as a juror bring my life experience. So
23 those experiences I've had, catching police officers lying,
24 have become ingrained in who I am. A citizen who hasn't had
25 that privilege of doing that probably doesn't know. I know

1 that police officers lie.

2 THE COURT: What is the other yes answer?

3 A JUROR: The other yes is I have a conviction.
4 I got a DUI in 1992. I had to -- I couldn't get the first
5 offender program because I also had a marijuana charge.

6 I think that marijuana should not be illegal. I
7 think that it's illegal federally because it's basically an
8 abuse of the commerce clause.

9 I also absolutely think that it's outrageous to
10 prosecute people and to criminally prosecute them for
11 marijuana. My understanding, in fact, is that both
12 President Trump and President Biden have instructed the
13 federal prosecutor's, at least this is what I've read, not
14 to pursue these cases. So I'm shocked that the federal
15 prosecution is here with a manufacturing of marijuana case.

16 So this guy allegedly grew some weed and my
17 federal tax dollars in today's -- there's even a bill to
18 make it, to legalize it I believe in the Senate and half the
19 states have legalized it. So I am shocked at that. And it
20 messed up my life and I just think that's totally unfair.

21 So it would be very difficult, but again I would
22 try to apply. But I think that's absolutely outrageous that
23 they bring that prosecution.

24 THE COURT: But that's again my question.
25 Notwithstanding your personal views and your personal

1 experience, you know I would instruct you that you need to
2 follow the law whether you agree with it or not.

3 A JUROR: I know.

4 THE COURT: Either you're follow that --

5 A JUROR: I would try to follow it. It would be
6 very, very difficult for me.

7 THE COURT: Is there anything else you answered
8 yes to?

9 A JUROR: No.

10 THE COURT: Are there any questions from the
11 government?

12 MS. WELSH: No.

13 THE COURT: Are there any questions from the
14 defense?

15 MS. CHAVAR: As a criminal defense lawyer, I
16 understand. I'd love to sit on a jury as well.

17 I think that you have made it clear that it
18 would be difficult --

19 THE COURT: Do you have a question?

20 MS. CHAVAR: I'm sorry, Your Honor. Never mind.
21 I'm good.

22 THE COURT: No questions.

23 A JUROR: It's difficult because you spend your
24 time digging at these cases and finding holes in them and
25 you get mad about it. It gets you to the core.

1 I'm mad about the police officer. I have to go
2 do a suppression motion because he's lying. I have a video
3 to show he's lying, County police officer.

4 It makes me sick, you know. I will try to
5 contain that, but it's going to be hard. That's who I am.
6 I took a public defender defense job because of those
7 marijuana laws. I want to be a champion for people against
8 prosecutions for marijuana. I really do.

9 THE COURT: Okay.

10 A JUROR: You know. I feel very strongly, but I
11 will do my best.

12 THE COURT: I see that. I appreciate all of
13 that. Let me have you wait outside for a moment for me.
14 Okay? Thank you.

15 (The juror left the courtroom.)

16 THE COURT: Any motion from the government?

17 MS. WELSH: Yes, Your Honor. It is hard to
18 imagine anyone being more biased than that potential
19 juror and want to be Evangelical about it, too. We have a
20 motion.

21 THE COURT: Ms. Chavar?

22 MS. CHAVAR: I do not oppose the motion.

23 THE COURT: I will strike // for cause.
24 Let's bring him back.

25 (The juror entered the courtroom.)

1 THE COURT: All right. //, you are not
2 going to be surprised. I'm striking you from the jury, but
3 thank you very much for sharing your thoughts and I wish you
4 luck going forward. Thank you.

5 A JUROR: Thank you, Your Honor. Thank you,
6 everybody.

7 THE COURT: Bye-bye.

8 (The juror left the courtroom.)

9 THE COURT: Okay. So here's where we are.
10 We're certainly going to take at least a short break, but 20
11 folks by our count from that first group are still in the
12 pool and will be back in the building at 1:00 o'clock.

13 The next group is here. They're assembling in
14 6A now. They should be available to us in a few minutes.
15 Again, we need to take at least a short break. I can make
16 it relatively short on my end, but once we get started with
17 the next group, I would like to try to move forward with
18 them as quickly as possible. So if you want, this will be
19 long enough that you have a chance to eat. I would say do
20 that as quickly as possible, but this would be our best
21 chance.

22 What's the government's request now that it's 20
23 after?

24 MS. WELSH: Quarter of.

25 THE COURT: What about for the defense?

1 MS. CHAVAR: That's fine, Your Honor.

2 Twenty minutes will work.

3 THE COURT: Are the Marshals okay with
4 20 minutes?

5 U.S. MARSHAL: Yes, Your Honor.

6 THE COURT: Okay. So we'll be getting some
7 updated information. Let's just wait.

8 DEPUTY CLERK: Juror 23 has an issue.

9 THE COURT: 23 from the new group or the first
10 group?

11 DEPUTY CLERK: First group.

12 THE COURT: And 23 is currently in our pool
13 and has come forward and wants to what? See us, I guess?

14 DEPUTY CLERK: He has a work commitment on
15 Wednesday that he can't miss.

16 THE COURT: A work commitment on Wednesday that
17 he can't miss.

18 Are we willing to accept that indirect
19 representation or shall we bring them in?

20 MS. WELSH: I think we need to bring him in,
21 Your Honor.

22 THE COURT: All right. He's around, I take it?

23 DEPUTY CLERK: Yes.

24 THE COURT: All right. Let's bring Juror 23 in.

25 (Pause.)

1 DEPUTY CLERK: I'm told that he's not in the
2 building. He's not here.

3 THE COURT: All right. Well, we will try to
4 find him when he is here. Ask them to keep a lookout for
5 him and we'll bring him in when we can, but, all right.
6 Let's try to reconvene in 20 minutes and we'll bring the
7 second group in at that time. Okay?

8 All right. We will be in recess.

9 (Luncheon recess taken.)

10 * * *

11 Afternoon Session, 1:01 p.m.

12 THE COURT: Good afternoon, everybody. Thank
13 you all for being here. I'm Judge Stark. I'm a District
14 Judge on the United States District Court for the District
15 of Delaware. Thank you, ladies and gentleman, for being
16 here and being willing to serve on this jury.

17 In a moment I'm going to turn to the start of
18 what is called the voir dire process, and I will read to you
19 a fairly lengthy document. Before I do that, I want to make
20 a few preliminary comments.

21 First to thank you all for being here. I know
22 we have taken you away from whatever else you might have
23 been doing or wanted to be doing today and I know, of
24 course, that we're still in the midst of a pandemic and you
25 may have some concerns about serving on a jury at this time.

1 I will address that more in the document that
2 I'm going to read to you but I want to make sure you all
3 know you will all have a chance to speak to me directly one
4 on one, if you wish, about any concerns you might have
5 serving on this jury including here in the time of COVID.

6 You will all realize that we're all wearing
7 masks. The policy in our building is that you must have a
8 mask on pretty much at all times when you are in the
9 building and when you are in the courtroom.

10 You may, if you are on the jury, see a few
11 exceptions to that.

12 One, if the lawyers or witnesses are talking for
13 any significant length, I do let them remove their masks.

14 Second, when I bring you to be back in for a
15 one-on-one conversation, I will ask you if you don't mind
16 to remove your masks, so that we can all have a short
17 conversation about any concerns you might have.

18 And, third, if you are on the jury, you know,
19 when you are eating lunch or drinking water, whatever, you
20 can, of course, remove your mask for that.

21 So with that background, I'm going to actually
22 take my mask off because I'm going to turn to this document
23 called voir dire that will explain more about what we're
24 doing here today. Okay?

25 It begins: I am Judge Stark, the Trial Judge

1 in this case. You have been called to this courtroom as a
2 panel of prospective jurors for the case of United States
3 versus Omar Morales Colon. This is a criminal case in which
4 Mr. Colon is charged with Conspiracy to Distribute Cocaine,
5 Attempted Possession With Intent to Distribute Cocaine,
6 Manufacture of Marijuana, and Possession With Intent to
7 Distribute Marijuana.

8 From this panel, we will select the jurors who
9 will sit on the jury that will decide this case. We will
10 also select alternative jurors who will be part of this
11 trial and available in the event that one of the regular
12 jurors is ill or is otherwise unable to continue on the
13 jury.

14 Under our system of justice, the role of the
15 jury is to find the facts of the case based on the evidence
16 presented at the trial. That is from the evidence seen and
17 heard in court, the jury decides what the facts are, and
18 then applies to those facts the law that I will give in my
19 instructions to the jury. My role as the Trial Judge is to
20 make whatever legal decisions that must be made during the
21 trial and to explain to the jury the legal principles that
22 will guide its decisions.

23 The ongoing COVID-19 pandemic has made for
24 difficult and trying times for all of us. I expect you
25 may have questions and concerns about the possibility of

1 serving on a jury at this time. We want you to know that
2 we are absolutely committed to the safety and well being of
3 our jurors. We are closely monitoring and following the
4 guidance issued by the CDC and local health authorities and
5 have undertaken extensive efforts to make our spaces as safe
6 as possible. We are also taking all possible precautions
7 throughout the process of jury selection, trial, and
8 deliberations to safeguard everyone's participation.

9 We recognize that you are all here at some
10 sacrifice, especially during this ongoing COVID-19 pandemic.
11 How we cannot excuse anyone merely because of personal
12 inconvenience, unless serving on this jury would be a
13 compelling hardship. We have reviewed the COVID-19
14 questionnaires that you have filed in and submitted, and
15 we have carefully considered the answers that you have
16 provided to us.

17 Jurors perform a vital role in the American
18 system of justice. We rely on juries to decide cases tried
19 in courts, so service on a jury is an important duty of
20 citizenship. Jurors must conduct themselves with honesty,
21 integrity, and fairness.

22 In a few minutes, you will be sworn to answer
23 truthfully questions about your qualifications to sit as
24 jurors in this case. This questioning process is called
25 voir dire. I will conduct the questioning, and the lawyers

1 for the parties may also participate. It is, of course,
2 essential that you answer these questions truthfully; a
3 deliberately untruthful answer could result in severe
4 penalties.

5 Questions will be asked to find out whether any
6 of you has any personal interest in this case or know of any
7 reason why you cannot render a fair and impartial verdict.
8 We want to know whether you are related to or personally
9 acquainted with any of the parties, their lawyers, or any
10 of the witnesses who may appear during the trial, and
11 whether you are already know anything about this case.
12 Other questions will be asked to determine whether any of
13 you has any beliefs, feelings, life experiences, or any
14 other reasons that might influence you in rendering a
15 verdict.

16 I am going to read the questions one by one. As
17 I do, please listen closely and think to yourself whether
18 you have a "yes" answer to any of the questions. If you do
19 have a "yes" answer, you do not need to do anything. You do
20 not need to raise your hand. You do not need to stand.
21 Just try to keep in mind if you have a "yes" answer.

22 It is not necessary for you to remember the
23 number of questions you answered "yes" to. Instead, after I
24 have read all the questions, members of my staff will take
25 you back to the courtroom next to us, over here, and we will

1 use that courtroom as our jury room throughout the trial.
2 Please wear a mask and practice social distancing while are
3 you in that courtroom and whenever you are in and moving
4 about the courthouse. You may talk in that other courtroom,
5 but do not talk about this case or about the voir dire
6 questions and answers.

7 We will then bring each of you back to this
8 courtroom one by one to discuss any "yes" answers you may
9 have had to any of my voir dire questions. I will be joined
10 by the lawyers and the court reporter, and we will talk
11 about your concerns. To help with that discussion, we will
12 ask you to please remove your mask and if you feel
13 uncomfortable doing that, we will provide you with a clear
14 face covering. After we talk about your concerns, I will
15 give you further instructions on where to go next. Those
16 instruction also may be that you are to return to the
17 courtroom later today for additional steps in the jury
18 selection process.

19 Once we have met with all members of the jury
20 pool one by one, we will bring some of you back into the
21 courtroom as a group. Those of with you who remain in our
22 jury pool at that time will be joined by other potential
23 jurors we are meeting with at another time today. Then both
24 the government and the defendant will have the opportunity
25 to exercise peremptory challenges; that is, they can strike

1 potential jurors for no reason at all. After each side uses
2 all of its peremptory challenges, we will be left with our
3 jury, which will consist of 12 jurors and 2 alternates.
4 Those 14 individuals will be required to return to court
5 each day until trial is concluded. As I have explained,
6 after this process is completed, not all of you will be
7 chosen to sit on the jury for this case. If you are not
8 chosen, you should not take it personally, and you should
9 not consider it a reflection on your ability or integrity.

10 I will have further instructions for you on the
11 schedule as we proceed through the selection process today.
12 Please be patient while we complete the process. And at
13 this point, I'll ask my courtroom deputy to please
14 administer an oath to the jury pool.

15 (Prospective jurors placed under oath.)

16 THE COURT: Thank you all. You may be seated.

17 As I noted already, this case is captioned
18 United States vs. Omar Morales Colon. The defendant is
19 charged with several controlled substance offenses. The
20 defendant has pleaded not guilty to the charges. The trial
21 in this case is expected to conclude by next Friday,
22 September 24th, and may conclude earlier.

23 With that background, I'm going to read to you
24 the voir dire questions. There are 37 of them. So just try
25 to keep in your mind whether or not you have a yes or no to

1 any of these questions.

2 Question 1. The government is represented by
3 assistant United States Attorney Jennifer Welsh and Whitney
4 Cloud. They will also be joined by Drug Enforcement
5 Administration Special Agent Jeremy Smith, as well as United
6 States Attorney's Office Paralegal Stephanie Roca.

7 Question 1 is: Are you related to or personally
8 acquainted with any of these individuals?

9 Question 2. Have you or any member of your
10 immediate family, or a close friend, had any dealings with
11 the United States Attorney's Office, the Drug Enforcement
12 Administration, Homeland Security Investigations, the Newark
13 Police Department, the New Castle County Police Department,
14 or Zemi Property Management?

15 Question 3. The defendant is Omar Morales
16 Colon. The defendant is represented by Attorney Dina
17 Chavar. Do you or any member of your immediate family, or a
18 close friend, have any connection of any kind with these
19 individuals?

20 Question 4. Members of the panel, I am now
21 going to read the names of persons who may appear as
22 witnesses in this trial and will then ask you if you know
23 any of these individuals: Jeremy Smith, Anthony Salvemini,
24 Craig Maurer, Mark Lewis, James Kelly, Michelle Burrus,
25 Thomas Dillon Kashner, Gregory Simpler, Patrick M.

1 Campbell, James Skinner, Maolin Li, Mohamed Aviles Camberos,
2 Roque Valdez, John Cooper, Nilsa Martinez, and Elizabeth
3 Vargas Matos.

4 Question 4 is: Are you related to, or
5 personally acquainted with, any of these individuals?

6 Question 5. Members of the panel, I am now
7 going to read the names of other individuals who may be
8 discussed during this case and then I will ask whether you
9 know any of these individuals:

10 Shakira Martinez of Bear, Delaware.

11 William Brisco of Wilmington, Delaware.

12 Devin Hackett of Wilmington, Delaware.

13 Karina Colon of Bear, Delaware.

14 Marisol Quiles Rivera of Wilmington, Delaware.

15 Josue Torres of Wilmington, Delaware.

16 Elijah Barnett of Wilmington, Delaware.

17 Jose Molina-Martol of Aston, Pennsylvania.

18 Guadalupe Perez of Aston, Pennsylvania.

19 And Luis Alvarez of Aston Pennsylvania.

20 Question 5 is: Are you related to, or
21 personally acquainted with, any of these individuals?

22 Question 6. Have you read or heard anything in
23 the news media or on the Internet concerning this case or
24 about criminal charges being filed against Omar Morales
25 Colon?

1 Question 7. Have you ever served as a juror in
2 a criminal case or a civil case or as a member of a grand
3 jury in either federal or state court?

4 Question 8. Have you or any member of your
5 family ever been a witness to, victim of, or convicted of a
6 crime?

7 Question 9. Have you or any member of your
8 family been employed by or investigated by any law
9 enforcement agency, including any local police, private
10 security, or federal agency?

11 Question 10. Would you give more or less weight
12 to the testimony of a law enforcement agent or police
13 officer than you would to that of a civilian witness simply
14 because he or she is employed as a law enforcement agent or
15 police officer?

16 Question 11. Would you tend to give the
17 testimony of a witness called by the prosecutor more weight
18 than the testimony of a witness called by a defendant?

19 Question 12. Do you belong to any crime
20 prevention societies, including but not limited to a
21 neighborhood watch organization?

22 Question 13. One or more of the witnesses in
23 this case may receive in the future lesser sentences in
24 exchange for cooperation with the government. Such "plea
25 bargaining" is lawful and proper. Do you believe that the

1 government should not offer reduced sentences in exchange
2 for cooperation and testimony?

3 Question 14. Do you have opinions about guilty
4 plea agreements that would prevent you from being a fair and
5 impartial juror in this case?

6 Question 15. Would you refuse to believe such
7 a witness simply because he or she has been convicted of a
8 federal offense?

9 16. Do you have any objections to law
10 enforcement officers legally taping conversations of
11 defendants and others related to a criminal investigation?

12 17. Have you or anyone in your family ever
13 been self-employed or owned their own business?

14 18. The defendant is charged with conspiring to
15 distribute cocaine and manufacturing marijuana, along with
16 two possession with intent to distribute charges. Do you
17 hold any beliefs, feelings or prejudices against these types
18 of prosecutions such that you could not sit as a fair and
19 impartial juror in this case?

20 19. Do you have any opinions about drug laws
21 that would make you unable to decide this case on the
22 evidence presented and the law as stated by the Court?

23 20. Do you have such negative feelings about
24 drugs that you would about unable to evaluate the evidence
25 fairly as to the defendant?

1 21. Have you or any member of your family, or
2 a close friend, been addicted to drugs or placed in a drug
3 treatment program?

4 22. The possible punishment of the case is not
5 for the jury to decide. Will you have difficulty deciding
6 this case without concerns for any potential punishment the
7 defendant may or may not receive?

8 23. Would you be unable to sit in judgment
9 of another individual because of any personal beliefs?

10 24. Do you believe that if the government
11 charged someone with a crime, then that person is probably
12 guilty of something?

13 25. A fundamental principle of our legal system
14 is that when a person is charged with a criminal offense, he
15 is presumed to be innocent unless and until the government
16 proves guilt beyond a reasonable doubt. A defendant in a
17 criminal case has no obligation to prove anything or to
18 offer any evidence at all. If you are selected as a juror
19 in this case, will you have difficulty following this
20 instruction?

21 26. In a criminal case such as this, the
22 prosecution must prove each and every element of the
23 offenses charged beyond a reasonable doubt. If the
24 prosecution does not prove each and every element of the
25 offenses charged beyond a reasonable doubt, then the jury is

1 required by law to acquit the defendant; that is, to return
2 a verdict of not guilty. If you are selected as a juror in
3 this case, will you have difficulty following this
4 instruction?

5 27. A defendant has a constitutional right to
6 remain silent throughout the trial and not testify, and that
7 decision cannot be held against him or her.

8 If you are selected as a juror in this case,
9 will you have difficulty following this instruction?

10 28. In order to reach a verdict, all jurors
11 must reach the same conclusion. In deliberations you must
12 consider the opinions and points of your fellow jurors, but
13 in the final analysis you must follow your own conscience
14 and be personally satisfied with the verdict.

15 Will you have difficulty expressing your own
16 opinions and thoughts about this case?

17 29. Will you have any difficulty in respecting
18 the views of your fellow jurors even if they are different
19 from your own?

20 30. Do you feel that you will tend to go along
21 with the majority of jurors even if you do not agree, just
22 because you are in the minority?

23 31. If you are selected as a juror in this
24 case, you will take an oath to render a verdict based upon
25 the law as given to you by the Court. You will be required

1 to accept the law as given to you by the Court without
2 regard to any personal opinion you may have as to what the
3 law is or should be.

4 Would you be unable to reach a verdict in
5 accordance with the law as given to you in the instructions
6 of the Court?

7 32. Provided the government proves the
8 defendant's guilt beyond a reasonable doubt, would anything
9 you might learn about the defendant concerning such things
10 as his age, health, race, national origin, religious
11 affiliation, family circumstances, or economic circumstances
12 prevent you from finding him guilty?

13 33. If you find, after considering the evidence
14 along with my instructions as to the law, that the defendant
15 is guilty of one or more of the counts in the indictment, it
16 will be my duty, as judge, to determine any punishment. The
17 lieu does not permit you to consider the issue of
18 punishment.

19 Would you vote not guilty, no matter what the
20 evidence indicates, because of any possible punishment?

21 34. This trial may last until Friday,
22 September 24th. So, if selected for the jury, you may have
23 to be here each day next week. Each day will begin at
24 9:00 a.m. and may run until as late as 5:00 p.m. We will
25 have at least one morning break and one afternoon break each

1 day. Also, there will be a lunch break and we will provide
2 you with lunch.

3 Does this schedule impose a substantial hardship
4 on you?

5 35. Do you have any medical condition, for
6 instance, a visual hearing impairment, which might affect
7 your ability to devote full attention to this proceeding?

8 36. In the time since you completed the
9 questionnaire regarding COVID 19, have you or anyone in your
10 household tested positive for COVID 19 or experienced
11 COVID-like symptoms, such as cough, fever, shortness of
12 breath, or loss of the sense of taste or smell?

13 37. Can you think of any other matter which you
14 should call to the Court's attention which may have some
15 bearing on your qualification as a juror, or which may
16 prevent you from rendering a fair and impartial verdict
17 based solely upon the evidence and my instructions as to the
18 law?

19 So, ladies and gentlemen, that completes the
20 voir dire questions. As I said, we are going to send you
21 out into the courtroom next-door here and momentarily, after
22 we send you in there, we'll start bringing you back in one
23 by one to see if you have any questions that you answered
24 yes to or anything else you want to talk to me about. So at
25 this point, we'll ask that the jury be taken out, please.

1 (The prospective jurors were excused to the
2 alternate courtroom.)

3 THE COURT: All right. Before we start bringing
4 the jurors in, a couple things. I think six of the folks
5 in the second group have provided COVID questionnaires
6 today.

7 Have you had a chance to review them and are
8 there any that we should be striking from the government?

9 MS. WELSH: Well no, Your Honor. I don't see
10 any.

11 THE COURT: None to strike?

12 MS. WELSH: Correct, Your Honor.

13 THE COURT: Do you agree, Ms. Chavar?

14 MS. CHAVAR: I agree.

15 THE COURT: All right. We'll keep those six in
16 our pool for now. So we have Juror No. 23 from this
17 morning's group waiting out there to talk to us. This is
18 the one that I believe we got an indication that he may now
19 have some conflict, work-related conflict next week, so
20 we'll bring him in first.

21 Juror No. 23 from this morning, we'll have him,
22 please.

23 (The juror entered the courtroom.)

24 THE COURT: Okay. Thank you. Again, it's

25 ///////////////. Right?

1 A JUROR: Yes.

2 THE COURT: And I understand you indicated after
3 we saw you, maybe you realized you had some sort of conflict
4 next week. Is that right?

5 A JUROR: Yes. I have a closing. I wasn't sure
6 if that was personal. You said personal or a hardship.

7 THE COURT: So you're a realtor. Right?

8 A JUROR: Yes.

9 THE COURT: And so do you have a closing
10 scheduled for Wednesday?

11 A JUROR: Yes.

12 THE COURT: And if you're unable to be there,
13 could the closing go forward?

14 A JUROR: Well, I talked to my mentor. He said
15 that I had to be there at the closing, so I didn't know. So
16 that's why I --

17 THE COURT: Does he or she know that you may
18 be -- that you've been called for jury duty?

19 A JUROR: No.

20 THE COURT: And I would have thought -- I've
21 never been a realtor, but I would have thought that someone
22 else might be able to be there for you and you should, you
23 know, still get whatever credit for what sale or
24 acquisition, but is that not the case?

25 A JUROR: No. I think in this case, the only

1 ones that aren't -- that don't have to be there are the
2 sellers and the -- or the buyers.

3 THE COURT: What is your role in this
4 transaction?

5 A JUROR: I'm the listing agent.

6 THE COURT: You're the listing agent?

7 A JUROR: Yes.

8 THE COURT: And do you not have someone you're
9 working with on the seller's side that could be there if
10 you're not able to make it on Wednesday?

11 A JUROR: Like a buyer's agent?

12 THE COURT: No. On the selling side. I mean,
13 do you have people in your office that you work with?

14 A JUROR: Yes.

15 THE COURT: And could one of those people be
16 there for you in your absence?

17 A JUROR: I'm not -- this is my first closing,
18 so I'm not sure --

19 THE COURT: Okay.

20 A JUROR: -- how that works. I can always ask
21 though.

22 THE COURT: Right. Okay. All right. Do you
23 think that if you're here with us on Wednesday, that you
24 would be able to focus on the trial or would your mind be
25 thinking of, oh, I'm missing my first closing?

1 A JUROR: Yes, I think I would be able to focus.

2 THE COURT: You think you could?

3 A JUROR: Yes.

4 THE COURT: Are there any further questions from
5 the government?

6 MS. WELSH: No, Your Honor.

7 THE COURT: From the defense, any further
8 questions?

9 MS. CHAVAR: No, Your Honor.

10 THE COURT: No? All right. Let me have you
11 wait outside again.

12 A JUROR: All right.

13 THE COURT: Thank you.

14 (The juror left the courtroom.)

15 THE COURT: Does the government have any motion
16 for this Juror No. 23?

17 MS. WELSH: I don't have a motion, Your Honor,
18 no.

19 THE COURT: Okay. Does the defense?

20 MS. CHAVAR: No, Your Honor.

21 THE COURT: Okay. Bear with me a second.

22 All right. Let's bring him back in. I'm going
23 to keep him in the pool.

24 (The juror entered the courtroom.)

25 THE COURT: All right, ///////////////. Thank you

1 again and thanks for sharing that information.

2 Congratulations on the sale.

3 A JUROR: Thank you.

4 THE COURT: But I'm going to need you to stick
5 around for the next process.

6 A JUROR: Okay.

7 THE COURT: If you could go next-door to
8 courtroom 6A and wait for there.

9 A JUROR: No problem.

10 THE COURT: Thank you.

11 A JUROR: Thank you.

12 (The juror left the courtroom.)

13 THE COURT: So during the break I got
14 information that Juror No. 32 from this morning may have --
15 in fact, I think did see the defendant in the hallway at a
16 certain point, maybe at the lunch break, I'm not sure which,
17 but I believe he crossed paths in some fashion with the
18 defendant being escorted by the Marshals. We want to let
19 you know that.

20 Juror No. 32 is available to speak to us if you
21 wish. I've had no interaction with Juror No. 32.

22 What's the government's position on what, if
23 anything, we should do at this point?

24 MS. WELSH: Your Honor, I think you need to
25 bring him in and ask some questions.

1 THE COURT: All right. Ms. Chavar?

2 MS. CHAVAR: Your Honor, I would like to ask him
3 a few questions.

4 THE COURT: Okay. I might just turn it over to
5 you to ask questions. Any objection to that?

6 MS. CHAVAR: No.

7 THE COURT: All right.

8 MS. WELSH: No.

9 THE COURT: 32 is out there. Right?

10 DEPUTY CLERK: Yes.

11 THE COURT: All right.

12 (The juror entered the courtroom.)

13 THE COURT: Welcome back, ///////////////. Right?

14 A JUROR: That is correct.

15 THE COURT: Thank you, sir, for coming forward.
16 We just had a few more questions for you from the lawyers, I
17 think. The government.

18 MS. WELSH: Thank you, Mr. Lynch. Did you see
19 the defendant during the break when we were around the
20 hallway? Did you run into the defendant?

21 A JUROR: I was coming out -- I was coming out
22 of the restroom and one of the officers, he pulled me off
23 the side and said let him pass and then I proceeded to go
24 back downstairs.

25 MS. WELSH: Okay. Did you notice anything about

1 the defendant as he was walking, interacting with each
2 other?

3 A JUROR: Other than he was in handcuffs.

4 MS. WELSH: That's what I was going to get at.

5 A JUROR: Which I had recognized him earlier
6 from him starting out here when we started to do that. I
7 figured he was the person that was going to be on the jury
8 or trial.

9 MS. WELSH: Okay. Would you draw any
10 conclusions about the fact that the defendant was in
11 handcuffs? Does that bring you to any conclusions about
12 whether he, you know, was guilty or not guilty before the
13 trial even starts?

14 A JUROR: No. I've been on jury duty several
15 times. I live in Sussex County and I've seen people in
16 handcuffs before, so just because he's in handcuffs don't
17 mean he's -- he has a place to stay today. I am going home.
18 Other than that...

19 THE COURT: Anything else?

20 MS. WELSH: No. That's all I have.

21 THE COURT: Ms. Chavar?

22 MS. CHAVAR: Sir, I didn't understand your last
23 statement. Would you clarify that? He has somewhere to
24 stay I think you said?

25 A JUROR: I've seen that he was in handcuffs and

1 I know he's going to have a place to stay tonight where I'm
2 going home. That's all. That don't mean he's guilty or
3 innocent or whatever.

4 MS. CHAVAR: Right. So by a place to stay, do
5 you mean that your assumption is that he's incarcerated?

6 A JUROR: Yes, he's incarcerated.

7 MS. CHAVAR: Okay. And does that bring you --

8 A JUROR: No.

9 MS. CHAVAR: -- to any --

10 A JUROR: That don't bother me. As long as I
11 don't have my hands in handcuffs, I'm okay.

12 MS. CHAVAR: Did you draw any conclusions as to
13 whether he is dangerous?

14 A JUROR: No. He's -- other cases that I've
15 been in Sussex County, when they're in the courtroom,
16 they've had them handcuffed and leg shackles. So with
17 that, they're dangerous. I say they're more dangerous or
18 violent.

19 MS. CHAVAR: And those other jury trials that
20 you were involved in --

21 A JUROR: Yes.

22 MS. CHAVAR: -- they were violent crimes?

23 A JUROR: Yes. They were armed robbery and
24 attempted murder.

25 MS. CHAVAR: And was the jury, were you able to

1 reach a verdict in those cases?

2 A JUROR: I'm sorry? My hearing.

3 MS. CHAVAR: Were you able to reach a verdict in
4 those cases?

5 A JUROR: We were.

6 MS. CHAVAR: Okay. And do you remember what the
7 verdict was?

8 A JUROR: It was guilty.

9 MS. CHAVAR: Okay. Well, was there more than
10 one?

11 A JUROR: Yes. The other one was molestation of
12 a child and then the other one was with attempted rape.

13 MS. CHAVAR: So there were three criminal trials
14 that you --

15 A JUROR: That I've been on, yes.

16 MS. CHAVAR: Okay. And all three of those, the
17 jury reached a verdict and that was guilty?

18 A JUROR: That's correct, yes.

19 MS. CHAVAR: Okay. Thank you.

20 THE COURT: Thank you. Mr. Lynch, have you
21 discussed with any other member of the jury pool what you
22 saw when you saw the defendant?

23 A JUROR: No.

24 THE COURT: Okay. I would instruct you not to
25 discuss that or have any discussion with them.

1 A JUROR: Okay.

2 THE COURT: Let me have you go back out in the
3 hallway.

4 A JUROR: Okay.

5 (Juror left courtroom.)

6 THE COURT: Any motion from the government?

7 MS. WELSH: No, Your Honor.

8 THE COURT: Any motion from the defense?

9 MS. CHAVAR: Yes, I would move to strike this
10 juror for cause, Your Honor.

11 THE COURT: Okay. What is the government's
12 position?

13 MS. WELSH: If juror said he said he saw the
14 defendant in handcuffs, I think he made it clear that he did
15 not draw any conclusions from that, and he's not going to
16 tell anyone else what he saw.

17 THE COURT: I assume that that is for cause;
18 right, Ms. Chavar?

19 MS. CHAVAR: A little more than that, too. I
20 thought his attitude was a little flippant with me. He has
21 got a place to stay tonight; and he has sat on three juries
22 before. They were all found guilty. They were all
23 handcuffed.

24 I don't think he could be unbiased.

25 THE COURT: Okay. Anything further?

1 MS. WELSH: There has been no indication from
2 him that he is going to be biased, so we object to him being
3 struck.

4 MS. CHAVAR: I'm sorry. Ms. Welsh, I cannot
5 hear you.

6 MS. WELSH: I'm facing the wrong way, too.

7 I don't think there's any indication from his
8 answers that he is biased. He may have made what he thought
9 was a joke about where the defendant was going tonight, but
10 I, I didn't hear him say he would be biased, so we object to
11 him being stricken.

12 THE COURT: Okay. I'm going to deny the motion
13 to strike the juror for cause. It did take me a moment to
14 understand what he was saying when he said the defendant
15 will have a place to stay. It's not a comment I'm familiar
16 with, but there was follow-up and I now understand what he
17 means.

18 I got no indication that he meant he can't be
19 fair and impartial, nor for the reasons we brought him in
20 here that he saw the defendant in handcuffs. It seemed to
21 me that he at least stated very confidently that that would
22 not affect his view of the evidence or whether the defendant
23 was, you know, going to be proven guilty or not. So I'm
24 going to keep this juror in the pool. I don't see cause to
25 strike him.

1 Let's bring him back for a moment, please.

2 (Juror entered courtroom.)

3 THE COURT: All right. Thank you again. I'm
4 going need you to go into Courtroom 6A. That's the
5 courtroom just right next to us and wait there and we'll
6 tell you what the further steps will be. Thank you.

7 A JUROR: Thank you.

8 (Juror left courtroom.)

9 THE COURT: Okay. So we're now going to move to
10 the second batch of jurors and we'll bring them in in their
11 random numerical order. We have 20 people in the pool and
12 as I understand, all 20 are here in the building. So my
13 plan is once we get 12 more qualified jurors for a total of
14 32, at that point I plan to stop, excuse the others and
15 bring the 32 in here and have you do your peremptory strikes
16 from that group.

17 Any objections or questions about that from the
18 government?

19 MS. WELSH: No.

20 (Government counsel confer.)

21 MS. WELSH: No, Your Honor.

22 THE COURT: And from the defense?

23 MS. CHAVAR: No, Your Honor.

24 THE COURT: All right. Let's start with No. 1,
25 please.

1 (Juror entered courtroom.)

2 THE COURT: Good afternoon. If you don't mind
3 coming forward through the doors there.

4 Are you // // // // //?

5 A JUROR: No, // // // //.

6 THE COURT: // // // // . All right. What is your
7 juror number? Oop, I'm looking at the wrong list. Forgive
8 me. One second.

9 A JUROR: Um-hmm.

10 THE COURT: Okay. Juror No. 39, // // // // // // // // . My
11 apologies to you.

12 A JUROR: Um-hmm.

13 THE COURT: Do you mind taking the mask off for
14 our discussion?

15 A JUROR: No.

16 THE COURT: Okay. Why don't you step back if
17 you could. Right there would be great.

18 Do you recall if you had any "yes" answers to my
19 questions?

20 A JUROR: No "yes" answers.

21 THE COURT: No "yes" answers. Anything, any
22 concerns about serving on this jury?

23 A JUROR: None whatsoever.

24 THE COURT: Any questions from the government?

25 MS. WELSH: No, Your Honor.

1 THE COURT: Any questions from the defense?

2 MS. CHAVAR: No, Your Honor.

3 THE COURT: All right. You can go back into
4 Courtroom 6A. Thank you.

5 (Juror left courtroom.)

6 * * *

7 (Juror entered juryroom.)

8 THE COURT: Good afternoon. If you could come
9 forward through those doors, please.

10 Are you // // // // //?

11 A JUROR: Yes.

12 THE COURT: Do you mind taking the mask off for
13 our discussion?

14 Thank you.

15 Did you have any "yes" answers to my questions?

16 A JUROR: Yes.

17 THE COURT: Do you remember what it was?

18 A JUROR: Number 24.

19 THE COURT: 24. Bear with me.

20 24 was do you believe that if the government
21 charged someone with a crime, that person is probably guilty
22 of something?

23 A JUROR: Yes.

24 THE COURT: So you answered "yes" to that?

25 A JUROR: Yes.

1 THE COURT: Maybe you could come a little bit
2 closer.

3 What caused you to say "yes" to that? Tell me
4 about that.

5 A JUROR: I just agreed on there because it
6 makes more sense. You know, if someone is charged with
7 something or arrested, then they're probably guilty of
8 something.

9 THE COURT: Okay. Do you understand my
10 instruction that in our system, someone is presumed to be
11 innocent and they're innocent until the government proves
12 them guilty?

13 A JUROR: Yes.

14 THE COURT: Do you think you could follow that
15 instruction?

16 A JUROR: I could probably, yeah.

17 THE COURT: You think you probably could?

18 A JUROR: Yeah.

19 THE COURT: Okay. Did you answer "yes" to
20 anything else?

21 A JUROR: No.

22 THE COURT: No. Any questions from the
23 government?

24 MS. WELSH: Sir, you understand based on the
25 question and you will also receive these instructions if you

1 were a juror, it's the government's burden of proof that
2 somebody is guilty, basically the fact that they're arrested
3 doesn't mean anything in terms of their guilt? I mean, is
4 that something you understand and agree with?

5 A JUROR: I'm sorry. What did you mean by that?

6 MS. WELSH: Well, just the fact that somebody is
7 arrested doesn't mean that they're guilty. The government
8 has to prove at trial that they are. Is that something you
9 understand and if you were instructed that way, would you be
10 able to follow those instructions?

11 A JUROR: Yes, I understand that.

12 THE COURT: Okay. Ms. Chavar, any questions?

13 MS. CHAVAR: Yes. So you understand the
14 proposition that someone is not guilty until proven?

15 A JUROR: Yes.

16 MS. CHAVAR: Okay. But it's still your belief
17 though that if they're arrested, they're probably guilty?

18 A JUROR: Yes.

19 MS. CHAVAR: Okay. So you, when you are hearing
20 the evidence, is it fair to say you are hearing it with an
21 ear towards probably guilty?

22 A JUROR: Yes, probably.

23 MS. CHAVAR: Thank you.

24 THE COURT: You can step outside for a moment,
25 please.

1 (Juror left courtroom.)

2 THE COURT: Ms. Chavar, do you move to strike?

3 MS. CHAVAR: I am, Your Honor.

4 THE COURT: What is the government's position?

5 MS. WELSH: We don't, we don't object.

6 THE COURT: Okay. I will strike Juror No. 40

7 for cause. Let's bring him back, please.

8 (Juror entered courtroom.)

9 THE COURT: //, thank you very much for
10 being willing to serve. I excuse you from jury service, so
11 you are free to go. Thank you.

12 A JUROR: Thank you.

13 THE COURT: Thank you.

14 (Juror left courtroom.)

15 * * *

16 (Juror entered juryroom.)

17 THE COURT: You can come forward through those
18 doors, please.

19 Are you //?

20 A JUROR: Yes.

21 THE COURT: Do you mind taking the mask off?

22 Thank you. Do you remember if you had any "yes" answers to
23 my questions?

24 A JUROR: Yes, I did.

25 THE COURT: Okay. Do you remember what any of

1 them were?

2 A JUROR: It was to knowing someone that dealt
3 with addiction.

4 THE COURT: I'm sorry about that. Who would
5 that be?

6 A JUROR: My best friend. I don't want to go
7 into too much detail.

8 THE COURT: You don't need to go into too much
9 detail. I'll just ask you a few questions. But is your
10 best friend, is it an ongoing situation now?

11 A JUROR: She is in recovery. She is doing very
12 well now.

13 THE COURT: Glad to hear that. Do you know what
14 kind of substance it was she had an issue with?

15 A JUROR: It was alcohol.

16 THE COURT: Do you think you could be a fair and
17 impartial juror in a trial that involves allegations about
18 drugs?

19 A JUROR: I think so. Pretty good at keeping
20 personal separate from other stuff.

21 THE COURT: Okay. All right. Other things that
22 answered "yes" to?

23 A JUROR: No. I mean I would say that it's not
24 the best time, but I'm sure it's never a good time for
25 something like this.

1 THE COURT: Okay. I appreciate that attitude.
2 So it would not be a substantial hardship for you to be with
3 us next week?

4 A JUROR: No. My husband has been having some
5 health issues but he is fine right now. So as long as that
6 continues, no.

7 THE COURT: Of course. I'm glad he is fine.
8 You know if something unexpected happens to any of us,
9 obviously you will let us know, right?

10 A JUROR: Yes.

11 THE COURT: All right. Any questions from the
12 government?

13 MS. WELSH: No. No questions.

14 THE COURT: And from the defense any questions?

15 MS. CHAVAR: No, Your Honor.

16 THE COURT: Okay. I'm going to have you go back
17 to Courtroom 6A where you were before and we'll see you
18 again.

19 A JUROR: Okay.

20 THE COURT: Thank you.

21 (Juror left courtroom.)

22 * * *

23 (Juror entered juryroom.)

24 THE COURT: Good afternoon. You can come
25 forward through there. Thank you.

1 who is the ASI as9100 registrar for that requirement, which
2 is a contractual requirement with Lockheed, Boeing,
3 Raytheon.

4 THE COURT: I assume it's too late to reschedule
5 that for the following week?

6 A JUROR: Yes.

7 THE COURT: All right.

8 A JUROR: I mean, I can contact my manager and
9 he can do it alone, but he is a brand new manager, so he has
10 not done that yet.

11 THE COURT: If you were here with us instead of
12 with him, I think you said there, would you be able to give
13 this trial the attention it deserves?

14 A JUROR: Yes, sir.

15 THE COURT: Any other things you answered "yes"
16 to?

17 A JUROR: No, I don't believe so.

18 THE COURT: No. Okay. I'm going to ask you to
19 wait out in the hallway for me, please.

20 A JUROR: Okay. Thank you.

21 (Juror left courtroom.)

22 THE COURT: Does the government object to me
23 striking her for the work-related hardship?

24 MS. WELSH: No, Your Honor.

25 THE COURT: Does the defense object?

1 MS. CHAVAR: No.

2 THE COURT: I'm going to strike her based on the
3 work issue. Let's bring her in.

4 (Juror entered courtroom.)

5 THE COURT: //, we're going let you
6 take your trip for the audit, so you are excused from
7 serving on this jury at this time. Thank you for being
8 willing to serve.

9 A JUROR: Absolutely.

10 THE COURT: You are free to go.

11 A JUROR: Thank you, sir.

12 (Juror left courtroom.)

13 * * *

14 (Juror entered juryroom.)

15 THE COURT: Good afternoon.

16 Are you //?

17 A JUROR: Yes.

18 THE COURT: Do you mind coming through the
19 doors? And, yes, if you don't mind taking your mask off,
20 that's great.

21 A JUROR: Not at all.

22 THE COURT: Okay.

23 A JUROR: Hello.

24 THE COURT: Do you recall if you had any "yes"
25 answers?

1 A JUROR: No.

2 THE COURT: Were there no "yes" answers?

3 A JUROR: No "yes" answers.

4 THE COURT: No "yes" answers. Bad question.

5 Sorry about that.

6 A JUROR: That's okay.

7 THE COURT: Is there anything you wanted to
8 discuss with us about possibly serving on this jury?

9 A JUROR: No.

10 THE COURT: No. Okay. Any questions from the
11 government?

12 MS. WELSH: No, Your Honor.

13 THE COURT: From the defense?

14 MS. CHAVAR: No, Your Honor.

15 THE COURT: Okay. We'll have you go back to
16 Courtroom 6A and we'll see you again in a bit.

17 A JUROR: Okay.

18 (Juror left courtroom.)

19 * * *

20 (The juror entered the courtroom.)

21 THE COURT: Good afternoon. Please come forward
22 through the doors.

23 Are you ~~//////////~~?

24 A JUROR: Yes.

25 THE COURT: Do you mind taking the mask off for

1 our discussion?

2 A JUROR: Not at all.

3 THE COURT: Do you remember if you had any "yes"
4 answers?

5 A JUROR: I did.

6 THE COURT: Do you remember what they were?

7 A JUROR: I was self-employed back in my
8 twenties, yes.

9 THE COURT: What kind of business was that?

10 A JUROR: Lawn and landscape.

11 THE COURT: Are you currently self-employed?

12 A JUROR: No.

13 THE COURT: Other things you answered yes to?

14 A JUROR: It was something about the marijuana
15 and cocaine. I'm for legalizing marijuana, not for cocaine,
16 but other than that. Those are the only two things I
17 answered yes to.

18 THE COURT: Right. Okay. So if you are on this
19 jury, you'll hear instructions from me about what the law
20 is, including law with respect to marijuana.

21 A JUROR: Yes.

22 THE COURT: Do you think you could follow that
23 law and those instructions even if you may not agree with
24 them?

25 A JUROR: Sure.

1 THE COURT: You think you could?

2 A JUROR: Yeah.

3 THE COURT: Okay. Other things you answered yes
4 to?

5 A JUROR: I think that was it.

6 THE COURT: Okay.

7 A JUROR: That was it.

8 THE COURT: Let's see if the lawyers have any
9 questions for you.

10 Any questions from the government?

11 MS. WELSH: Yes. When you say that you are for
12 legalizing marijuana, are you talking about making it legal
13 for people to possess it and smoke it or of trafficking in
14 it, all kinds of marijuana uses?

15 A JUROR: No. Recreational use. Not
16 trafficking or anything like that. I mean, I will be
17 honest. I broke my leg four years ago. A friend of mine
18 brought me over CBD and some other products. It helped me
19 get off the opiates, stuff like that, get off the harder
20 stuff. It really did help. That's just where I stand on
21 it.

22 THE COURT: Okay.

23 MS. WELSH: I don't have any other questions.

24 THE COURT: Any questions from the defense?

25 MS. CHAVAR: So is it fair to say that you for

1 the legalization of personal use of marijuana?

2 A JUROR: Yes.

3 MS. CHAVAR: But you're also for enforcing the
4 laws that we have about marijuana as far as like
5 trafficking?

6 A JUROR: Yes.

7 MS. CHAVAR: Illegal sales, things like that?

8 A JUROR: Yes.

9 MS. CHAVAR: You're for those laws?

10 A JUROR: I think everything should have laws,
11 the same as alcohol.

12 MS. CHAVAR: And you believe in the enforcement
13 of those laws?

14 A JUROR: Yes, I do.

15 MS. CHAVAR: Thank you.

16 THE COURT: Okay. Can you wait out in the
17 hallway for us, please?

18 A JUROR: Absolutely.

19 THE COURT: Thank you.

20 (The juror left the courtroom.)

21 THE COURT: Any position from the government?

22 MS. WELSH: No, Your Honor.

23 THE COURT: And the defense?

24 MS. CHAVAR: No, Your Honor.

25 THE COURT: Let's bring him back.

1 (The juror entered the courtroom.)

2 THE COURT: //, thank you. We're going
3 to have you go back to the courtroom next-door.

4 A JUROR: All right.

5 THE COURT: And wait for further instructions.

6 A JUROR: Thank you, Your Honor.

7 THE COURT: Thank you.

8 A JUROR: Thank you.

9 (The juror left the courtroom.)

10 * * *

11 (The juror entered the courtroom.)

12 THE COURT: Good afternoon. If you would
13 come forward through those doors, please.

14 Are you //?

15 A JUROR: Yes.

16 THE COURT: Okay. Do you mind removing the mask
17 for our discussion?

18 A JUROR: No, not at all.

19 THE COURT: Thank you. Did you answer any of my
20 questions yes?

21 A JUROR: Yes.

22 THE COURT: Okay. Do you remember what they
23 might be?

24 A JUROR: There was about five or six of them.

25 THE COURT: Okay. Tell me what, if anything,

1 you remember.

2 A JUROR: Police officers, police officers
3 telling the truth. I come from a long history, long family
4 of police officers.

5 I've known every chief of police from every
6 department for the last 20 years, so when it came to would I
7 believe a police officer over somebody else, yes.

8 THE COURT: So you would tend to believe law
9 enforcement or a police officer simply because they're law
10 in enforcement or a police officer. Is that right?

11 A JUROR: Yes, that's right.

12 THE COURT: And if I instructed you that you are
13 to treat all witnesses the same and evaluate whether they're
14 telling the truth, whether they're law enforcement or not
15 law enforcement, do you think you could follow that
16 instruction?

17 A JUROR: Yes.

18 THE COURT: You could?

19 A JUROR: Yes. I believe I could.

20 THE COURT: But you do think you're more likely
21 to believe a law enforcement officer?

22 A JUROR: Yes, because to me, they would seem
23 coming from the world of conviction rather than from a world
24 of just who they are. This is what they do. This is what
25 they live by.

1 THE COURT: Okay. So that was at least one area
2 that you had "yes" answers for. Do you remember any of the
3 other topics that you may have had a yes answer for?

4 A JUROR: There are so many questions.

5 THE COURT: Yes, I know.

6 A JUROR: Sorry. I can remind you of some of
7 them if that's helpful. No. 9. What was No. 9? There was
8 2 and 9, I believe.

9 THE COURT: I don't remember them. No. 9 was
10 whether any of your family have been investigated by or
11 employed by law enforcement.

12 A JUROR: Yes. Everybody.

13 THE COURT: That's what we're discussing.

14 Number two, right, had to do with anyone in
15 your family have dealings with, including New Castle County
16 Police and Newark Police Department.

17 A JUROR: Yes. I have -- once again, Delaware
18 is a small state. I believe I've met everybody once in the
19 whole State of Delaware, but I do have friends I went to
20 grade school with, college, that were -- that are employed
21 as police officers.

22 THE COURT: On those particular forces?

23 A JUROR: Yes. And I'm also a member of two
24 fraternal organizations that supports them.

25 THE COURT: Supports the police?

1 A JUROR: Yes. So chances are I may know them
2 or may have heard of them.

3 THE COURT: Okay. Do you think you may have had
4 a yes to something other than just the general topic of law
5 enforcement and your interactions with them?

6 A JUROR: Yes. It was the one about
7 legalization of marijuana.

8 THE COURT: Yes.

9 A JUROR: I'm pro legalization of marijuana.

10 THE COURT: You would support legalization. Is
11 that just personal use amounts or would you legalize buying,
12 selling, trafficking?

13 A JUROR: No, not something illegal, but for the
14 legal sale of marijuana, you know, not --

15 THE COURT: You would be for making the law such
16 that one could have a small quantity for their own personal
17 use?

18 A JUROR: Yes.

19 THE COURT: Do you remember any other questions
20 you had a yes for?

21 A JUROR: Not that I recall.

22 THE COURT: If you think of any while you are
23 still in here, let me know.

24 Let me see if the lawyers have any questions.

25 A JUROR: Okay.

1 THE COURT: First, from the government?

2 MS. WELSH: Would you be able to follow the
3 instructions that you were given by the Court about
4 assessing the witness' credibility, law enforcement
5 officer's credibility, things like that?

6 A JUROR: Yes.

7 MS. WELSH: That's all.

8 THE COURT: Ms. Chavar, any questions?

9 MS. CHAVAR: I do. Good afternoon. You come
10 from a long line, I think you said, of law enforcement?

11 A JUROR: Yes.

12 MS. CHAVAR: I didn't catch whether you ever
13 served on the force.

14 A JUROR: No, I have not. My father,
15 grandfather, older brother, two uncles, a few nephews.

16 THE COURT: You're the black sheep.

17 A JUROR: That was the first thing I wanted to
18 do before I grew up and the last thing I wanted to do after
19 I grew up. It's a tough job.

20 MS. CHAVAR: Indeed. So I think you said you
21 were involved in two organizations?

22 A JUROR: Fraternal organizations.

23 THE COURT: Okay. That support law enforcement?

24 A JUROR: Yes.

25 MS. CHAVAR: And I think you said earlier that

1 you would tend to think they are telling the truth because
2 that's who they are. That's how they're built?

3 A JUROR: Yes. It's just like why would police
4 lie? The world that I grew up in, there's no reason for a
5 police officer to lie, a law enforcement officer to lie.
6 That's the world I grew up in.

7 MS. CHAVAR: I understand. So when a police
8 officer or a law enforcement officer is testifying, you're
9 hearing that testimony from a place, right, that's tending
10 to believe it?

11 A JUROR: Yes.

12 MS. CHAVAR: Yes. You are not doubting it after
13 hearing it?

14 A JUROR: That's correct.

15 MS. CHAVAR: So even though the Court says to
16 you, you know, you have to draw your own conclusions and
17 treat everybody fairly, you think you pretty much would
18 already have come to a conclusion that they were testifying
19 credibly?

20 A JUROR: Yes, or else why wouldn't they be
21 the --

22 MS. CHAVAR: I understand. Okay. Thank you.

23 A JUROR: Thank you.

24 THE COURT: I'm going to have you wait out in
25 the hallway.

1 A JUROR: Thank you.

2 THE COURT: Thank you.

3 (The juror left the courtroom.)

4 THE COURT: Ms. Chavar, do you have a motion?

5 MS. CHAVAR: I do, Your Honor, for cause.

6 THE COURT: Is there any objection?

7 MS. WELSH: We don't object, Your Honor.

8 THE COURT: I will grant the motion and strike
9 Juror 45 for cause. Let's bring him back for a moment.

10 (The juror entered the courtroom.)

11 THE COURT: //, thank you for your
12 willingness to serve. I'm excusing you from serving on this
13 jury, so you are free to go. Thanks very much.

14 A JUROR: Thank you.

15 THE COURT: Bye-bye.

16 (The juror left the courtroom.)

17 THE COURT: Good afternoon. Please come forward
18 through those doors.

19 Are you //?

20 A JUROR: Yes.

21 THE COURT: And do you mind removing the mask
22 for our discussion?

23 A JUROR: No, I do not.

24 THE COURT: Thank you so much. Do you recall if
25 you had any "yes" answers to my questions?

1 A JUROR: Yes.

2 THE COURT: And did you?

3 A JUROR: Yes.

4 THE COURT: And do you remember what they might
5 be?

6 A JUROR: Well, one of them is I'm
7 self-employed, so coming up here and -- it will be a
8 financial burden for me and my spouse. We also take care of
9 his parents, so that be would, you know, really a financial
10 burden.

11 THE COURT: What kind of business do you have?

12 A JUROR: We do fireplaces. Actually, gas
13 fireplaces, so we have to go to homeowners in different
14 places, set up.

15 THE COURT: Okay.

16 A JUROR: And if we are not working, there's no
17 income.

18 THE COURT: And do you have some appointments
19 set up for next week already?

20 A JUROR: Yes. Pretty much, you know, we get
21 the work from a company that gives it to us, you know, and
22 they already have me set up on schedule.

23 THE COURT: Okay.

24 A JUROR: So ...

25 THE COURT: If you are not able to keep those

1 appointments yourself next week, is there anyone else that
2 could take your place?

3 A JUROR: They have to move them out.

4 THE COURT: I'm sorry?

5 A JUROR: They have to move them out.

6 THE COURT: Would you be getting paid or not
7 paid?

8 A JUROR: No. There's no income. If I'm not
9 doing the work, there's no income.

10 THE COURT: And you are in Sussex County.
11 Right?

12 A JUROR: Yes, sir.

13 THE COURT: And that is a bit of a drive, of
14 course.

15 A JUROR: About eighty-something miles, Your
16 Honor.

17 THE COURT: Okay. Now, we could put you up in a
18 hotel, but I take it the responsibility you have I guess to
19 your in-laws?

20 A JUROR: Yes.

21 THE COURT: Would that be helpful for you to be
22 able to stay up here or would that not be helpful?

23 A JUROR: No, that would not be helpful.

24 THE COURT: All right. Anything else you
25 answered yes to?

1 A JUROR: There was some question concerning
2 police officers. I was in an abusive relationship with a
3 police officer a while back and I'm a little biased, I will
4 be honest.

5 THE COURT: I'm sorry to hear all of that.

6 All right. I'm going to excuse you from serving
7 on our jury, but thank you for being here and being willing
8 to serve.

9 A JUROR: Thank you, Your Honor.

10 THE COURT: Safe travels.

11 A JUROR: You have a good day.

12 (The juror left the courtroom.)

13 THE COURT: For the record, I struck her for the
14 hardship and for the law enforcement issue.

15 (The juror entered the courtroom.)

16 THE COURT: Good afternoon. If you don't mind
17 coming forward through those doors.

18 Are you ///?

19 A JUROR: Yes.

20 THE COURT: Okay. And do you mind taking the
21 mask off for our discussion?

22 A JUROR: No.

23 THE COURT: Thank you. Did you have any "yes"
24 answers to my questions?

25 A JUROR: Yes.

1 THE COURT: Okay. Do you remember what any of
2 them were?

3 A JUROR: There's one something about being a
4 federal employee. I worked for the post office. I don't
5 know if that counts.

6 THE COURT: That counts in my book. So you did
7 or do work for the post office?

8 A JUROR: I'm retired from the post office.

9 THE COURT: What did you do?

10 A JUROR: I was a carrier.

11 THE COURT: Okay. And how long ago did you
12 retire?

13 A JUROR: About four-and-a-half years ago.

14 THE COURT: Okay. All right. Any other "yes"
15 answers?

16 A JUROR: There's one. Something about a family
17 member had a business.

18 THE COURT: Yes. Do you remember the business?

19 A JUROR: Yes. My sister-in-law has a business.

20 THE COURT: What kind of business?

21 A JUROR: Embroidery.

22 THE COURT: What is it? Sorry.

23 A JUROR: Embroidery for, like, schools.

24 THE COURT: Sure. Have you ever worked with her
25 business?

1 A JUROR: Yes.

2 THE COURT: And do you own a part of the
3 business?

4 A JUROR: No.

5 THE COURT: Generally, what did you do for the
6 business?

7 A JUROR: Occasionally, if she got backed up, I
8 would go in and help her a day or two running machines.

9 THE COURT: Okay. Anything else you think you
10 answered yes to?

11 A JUROR: There was a question about --
12 something about rehab.

13 THE COURT: Yes. If anybody you know --

14 A JUROR: I didn't personally know. I have
15 friends who have children who have been in rehab.

16 THE COURT: Okay.

17 A JUROR: But no one in my family or not any
18 person that I -- I really wasn't friends with their
19 children.

20 THE COURT: Right. But you saw it through your
21 friends?

22 A JUROR: Yes.

23 THE COURT: What their children maybe dealt
24 with?

25 A JUROR: Yes.

1 THE COURT: Anything else?

2 A JUROR: That was it.

3 THE COURT: Any questions from the government?

4 MS. WELSH: No, nothing.

5 THE COURT: From the defense?

6 MS. CHAVAR: No, Your Honor.

7 THE COURT: Okay. We'll just have you go back
8 in the courtroom next-door and wait there for us.

9 A JUROR: Thank you, Your Honor.

10 (The juror left the courtroom.)

11 * * *

12 (The juror entered the courtroom.)

13 THE COURT: Good afternoon. If you could come
14 forward through the door.

15 Are you ~~//////////~~?

16 A JUROR: Yes, I am.

17 THE COURT: Would you mind taking the mask off
18 for our discussion? Thank you.

19 Did you have any "yes" answers to my questions?

20 A JUROR: No, no, not really.

21 THE COURT: No?

22 A JUROR: I'm just -- I'm one of Jehovah's
23 witnesses and I don't know if any of the questions pertain
24 to that.

25 THE COURT: Well, as a Jehovah's witness, do you

1 have a personal belief that makes it difficult for you to
2 sit in judgment on other people?

3 A JUROR: I just believe that judgment is not
4 mine.

5 THE COURT: So would it be difficult for you if
6 I put you on this jury and I tell you your job is to
7 essentially judge the facts and decide whether a particular
8 individual is guilty of a crime?

9 You're shaking your head. That would be
10 difficult. Right?

11 A JUROR: I believe so.

12 THE COURT: Okay. All right. I'm going to
13 excuse you from serving on this jury, so you are free to go.
14 Thank you very much.

15 A JUROR: Thank you.

16 (Juror left courtroom.)

17 * * *

18 (Juror entered juryroom.)

19 THE COURT: Good afternoon. Come through the
20 doors there.

21 Are you ~~//////////~~?

22 A JUROR: Yes, I'm ~~//////////~~.

23 THE COURT: Do you mind taking the mask off just
24 for our discussion?

25 A JUROR: Not a problem.

1 THE COURT: Did you have any "yes" answers to my
2 questions?

3 A JUROR: I had one. The juror, I've been a
4 juror before.

5 THE COURT: Okay. Was that in this court or
6 state court.

7 A JUROR: No, it was down the road.

8 THE COURT: All right. Probably state court.
9 Do you know about how long ago that was?

10 A JUROR: 15 years, maybe more.

11 THE COURT: Okay. Do you remember anything
12 about it? Was it a criminal or civil case?

13 A JUROR: It was criminal.

14 THE COURT: Criminal. Do you remember anything
15 about what kind of charges?

16 A JUROR: It actually had to do with assault.

17 THE COURT: Okay. Did the jury reach a verdict?

18 A JUROR: Well, we had to do a few different
19 charges. We found guilty on maybe one or two and not guilty
20 on one or two. I don't specifically remember.

21 THE COURT: Okay. Other things you answered
22 "yes" to?

23 A JUROR: I don't think so.

24 THE COURT: You don't think so. Okay. Any
25 questions from the government?

1 MS. WELSH: No.

2 THE COURT: From the defense?

3 MS. CHAVAR: No, Your Honor.

4 THE COURT: Okay. We're going to have you go
5 back to the courtroom next door. Thank you very much.

6 (Juror left courtroom.)

7 * * *

8 (Juror entered juryroom.)

9 THE COURT: Good afternoon. If you could come
10 forward through the doors, please.

11 Are you \\\

12 A JUROR: Yes.

13 THE COURT: Do you mind coming closer to us so
14 we can be sure to hear each other? Thank you.

15 Do you mind taking of mask off for our
16 discussion?

17 A JUROR: Oh, sure.

18 THE COURT: Thank you. Do you remember, did you
19 have any "yes" answers to my questions?

20 A JUROR: Pardon?

21 THE COURT: Did you have any "yes" answers to my
22 questions?

23 A JUROR: No.

24 THE COURT: No. Okay.

25 A JUROR: The only thing I might bring up is I

1 have a problem hearing out of this ear --

2 THE COURT: Okay.

3 A JUROR: -- due to I have a growth in there.

4 THE COURT: Okay.

5 A JUROR: Kind of makes it like it's plugged up
6 all the time.

7 THE COURT: I'm sorry to hear that. Do you
8 think you heard what I was saying when I was reading those
9 questions?

10 A JUROR: Most of it.

11 THE COURT: Most of it.

12 A JUROR: Yeah.

13 THE COURT: But you might have missed some of
14 it.

15 A JUROR: Pardon?

16 THE COURT: I said you might have missed some of
17 it, huh?

18 A JUROR: There was probably a couple.

19 THE COURT: Okay. You're standing next to our
20 jury box.

21 You're standing next to our jury seats, those
22 red seats.

23 A JUROR: Uh-huh.

24 THE COURT: The witness stand is going to be
25 behind you about where those doors are that you walked

1 through. And you can see where the lawyers are going to
2 speak from. We have a microphone system. It's on now. How
3 confident are you that in sitting in one of these seats for
4 a week are you going to hear, you know, the things that
5 we're all saying?

6 A JUROR: Probably if I was in the front, I
7 could probably do okay, but if I was towards the back, I
8 probably would catch like every other word.

9 THE COURT: Right. Okay. All right. Is there
10 anything else that you wanted to raise with us?

11 A JUROR: No. That's it.

12 THE COURT: Okay. All right. Any questions?

13 MS. WELSH: No questions.

14 THE COURT: Any questions?

15 MS. CHAVAR: No, Your Honor.

16 THE COURT: I'm going to have you just wait
17 outside.

18 A JUROR: Thank you, Your Honor.

19 THE COURT: Thank you.

20 (Juror left courtroom.)

21 THE COURT: He seems like he wasn't hearing me
22 all the time, so I think I probably would be better to
23 strike him.

24 Does the government have any objection to that?

25 MS. WELSH: No, Your Honor.

1 THE COURT: Does the defense?

2 MS. CHAVAR: No, Your Honor.

3 THE COURT: So we'll strike -- that was Juror
4 No. 50. Let's bring him back, please.

5 (Juror entered courtroom.)

6 THE COURT: // // // // // // // //, can you hear me?

7 A JUROR: Excuse me?

8 THE COURT: Come up here. Sorry about that.
9 Can you hear me?

10 A JUROR: A little bit, yeah.

11 THE COURT: Okay. Come closer.

12 I'm going to excuse you from serving on this
13 jury so your obligation to us is done. Thank you very
14 much for being willing to serve. Okay? And you are free
15 to go.

16 A JUROR: Okay. Thank you.

17 THE COURT: Thank you.

18 A JUROR: Thank you (indicating to the
19 attorneys).

20 (Juror left courtroom.)

21 * * *

22 (Juror entered juryroom.)

23 THE COURT: Good afternoon.

24 A JUROR: Hello.

25 THE COURT: Please come through the doors.

1 Thank you. Are you // // // // //?

2 A JUROR: Yes, I am.

3 THE COURT: Do you mind taking your mask off?

4 A JUROR: No.

5 THE COURT: Thanks so much. Do you recall if
6 you had any "yes" answers?

7 A JUROR: No.

8 THE COURT: There were no "yes" answers?

9 A JUROR: There was none.

10 THE COURT: Anything you wanted to talk to us
11 about about serving on this jury?

12 A JUROR: I used to work for the prison back in
13 2010 but down in Sussex County.

14 THE COURT: You worked for -- were you a
15 correctional office?

16 A JUROR: No, I was one of the nurses there.

17 THE COURT: And that stopped about 10-plus years
18 ago?

19 A JUROR: Five years ago.

20 THE COURT: Five, oh.

21 A JUROR: Yeah.

22 THE COURT: All right. Anything else that you
23 wanted to share with us?

24 A JUROR: No.

25 THE COURT: Any questions from the government?

1 MS. WELSH: No.

2 THE COURT: From the defense?

3 MS. CHAVAR: No, Your Honor.

4 THE COURT: All right. We're going to have you
5 wait back in the courtroom next door. Thank you.

6 A JUROR: Thank you.

7 (Juror left courtroom.)

8 * * *

9 (Juror entered juryroom.)

10 THE COURT: Good afternoon. If you could come
11 forward through the doors, please.

12 Are you \\\\\\\\\\\\\\\\?

13 A JUROR: Yes.

14 THE COURT: Okay. And do you mind taking the
15 mask off for our discussion? Thank you.

16 Did you have any "yes" answers to my questions?

17 A JUROR: I did.

18 THE COURT: Okay. Do you remember what any of
19 them were?

20 A JUROR: I remember one of them about a family
21 member owning a business or being self-employed.

22 THE COURT: Okay.

23 A JUROR: My brother owned his own bar for a
24 little bit.

25 THE COURT: A bar.

1 A JUROR: Um-hmm.

2 THE COURT: He doesn't any longer?

3 A JUROR: No, not anymore.

4 THE COURT: Did you ever work there, yourself?

5 A JUROR: I did not.

6 THE COURT: You think you had others "yes"

7 answers?

8 A JUROR: I think I did around some of the drug
9 questions. I don't remember all of the specifics.

10 THE COURT: That's fine, of course.

11 Anybody that you have been close to that has had
12 a substance abuse issue?

13 A JUROR: No. I have several family members who
14 use recreationally.

15 THE COURT: But no one as far as, you know, that
16 was addicted or needed to go to rehab or anything?

17 A JUROR: No.

18 THE COURT: Okay. Do you have any strong views
19 about whether drugs should be legal or illegal?

20 A JUROR: I do not.

21 THE COURT: Okay. Do you remember any other
22 topics you might have had a "yes" answer to?

23 A JUROR: I think that was it.

24 THE COURT: You think that was it? Okay. Any
25 other concerns you wanted to raise?

1 A JUROR: I think you said it was expected to
2 end by the 24th?

3 THE COURT: By next Friday, yes.

4 A JUROR: Okay.

5 THE COURT: Which is the 24, yes.

6 A JUROR: So I'm expecting to start a new job on
7 October 4th, the follow Monday. So that would be the only
8 thing.

9 THE COURT: I think there was a whole another
10 week after that.

11 A JUROR: Oh, yes. Yes.

12 THE COURT: Hopefully.

13 Any questions from the government?

14 MS. WELSH: No, no questions.

15 THE COURT: From the defense?

16 MS. CHAVAR: No, Your Honor.

17 THE COURT: Okay. I'm going to have you wait in
18 the other courtroom for us next door. Okay?

19 A JUROR: Okay. Thank you.

20 (Juror left courtroom.)

21 * * *

22 (Juror entered juryroom.)

23 THE COURT: Good afternoon. If you could come
24 through the doors, please.

25 Are you //////////////?

1 A JUROR: Yes, I am.

2 THE COURT: Do you mind removing the mask for
3 our discussion?

4 Okay. Thank you.

5 Did you have any "yes" answers to my questions?

6 A JUROR: Just the one regarding family drug
7 issues.

8 THE COURT: Okay. I'm sorry, I have to ask you,
9 but who in your family has or had an issue?

10 A JUROR: When I was 14, my brother was 16,
11 somebody laced one of his cigarettes with LSD and he had a
12 chemical imbalance in his brain ever since so. I don't have
13 a great affinity for illegal drugs.

14 THE COURT: Okay. I'm sorry about that.

15 Do you think that you could be a fair
16 and impartial juror in a trial that will have evidence
17 related to drugs and alleged drug dealing?

18 A JUROR: I would like to think I could, but I
19 can't honestly 100 percent tell you I might not lean one way
20 or the other.

21 THE COURT: Okay. You would like to think you
22 could serve on the jury like this, but you are not sure?

23 A JUROR: That's correct.

24 THE COURT: Okay. Were there other things you
25 answered "yes" to or other concerns you wanted to raise?

1 A JUROR: No, that's it.

2 THE COURT: Any questions from the government?

3 MS. WELSH: No.

4 THE COURT: From the defense?

5 MS. CHAVAR: No, Your Honor.

6 THE COURT: All right. I'm going to have you
7 wait in the hallway for me, please.

8 A JUROR: Thank you.

9 (Juror left courtroom.)

10 THE COURT: Any motion from the government?

11 MS. WELSH: Yes, Your Honor, we don't have a
12 motion. But if the defense has a motion, I don't think
13 we're going to stand in the way of it.

14 THE COURT: Okay.

15 MS. WELSH: Yes.

16 THE COURT: What do you think, Ms. Chavar?

17 MS. CHAVAR: I would move to strike. I think he
18 was very honest with us. I think it would be difficult for
19 him and he probably would not be fair and impartial.

20 THE COURT: No objection.

21 MS. WELSH: No objection.

22 THE COURT: All right. I will go ahead and
23 strike Juror No. 53. Let's bring him back, please.

24 (Juror entered courtroom.)

25 THE COURT: //, thanks for your

1 willingness to serve but I'm going to excuse you from
2 serving on this jury. So thanks for being here. You are
3 free to go.

4 A JUROR: Thank you.

5 THE COURT: Thank you.

6 (Juror left courtroom.)

7 * * *

8 (Juror entered juryroom.)

9 THE COURT: Good afternoon. Yes, if you don't
10 mind coming forward through the doors there.

11 Are you \\\\\\\\\\\\\\\\\\\\?

12 A JUROR: Yes.

13 THE COURT: Okay. And do you mind taking the
14 mask off for our discussion?

15 Thank you very much.

16 Did you have any "yes" answers to my questions?

17 A JUROR: 13.

18 THE COURT: No. 13. Bear with me.

19 Plea bargaining? That was -- No. 13 was: One
20 or more witnesses have receive future lesser sentences in
21 exchange for cooperating with the government.

22 Was that it or something else?

23 A JUROR: No, that wasn't it. I thought.

24 THE COURT: Let me have you come closer to so I
25 can be sure to hear you.

1 A JUROR: I thought that was it, but that wasn't
2 it.

3 THE COURT: Do you remember what the topic was?

4 A JUROR: Uh-uh, I just remember the numbers
5 because you were going down.

6 THE COURT: Yes, there was a lot of them. Let
7 me -- did you know any of the names of the possible
8 witnesses?

9 A JUROR: No.

10 THE COURT: You don't know the lawyers or any
11 involved in the trial here?

12 A JUROR: No.

13 THE COURT: Have you ever been on a jury before?

14 A JUROR: Yes.

15 THE COURT: You have been on a jury before?

16 A JUROR: Yes.

17 THE COURT: Okay. About when was that?

18 A JUROR: About 15 years ago.

19 THE COURT: Was that here in Delaware?

20 A JUROR: Yes.

21 THE COURT: Federal court or state court, do you
22 know? Was it here?

23 A JUROR: No, state.

24 THE COURT: Do you remember what kind of case,
25 civil or criminal?

1 A JUROR: Criminal.

2 THE COURT: Sorry, I interrupted you. Criminal.

3 Do you remember what the charges were?

4 A JUROR: Theft.

5 THE COURT: And was there a verdict?

6 A JUROR: Yes.

7 THE COURT: What was it?

8 A JUROR: Guilty.

9 THE COURT: Is that the only time you have been
10 on a jury?

11 A JUROR: Yes.

12 THE COURT: Do you or anyone in your family work
13 for or interact with law enforcement?

14 A JUROR: No.

15 THE COURT: No. Doing to any crime prevention
16 societies?

17 A JUROR: No.

18 THE COURT: You don't have a concern about plea
19 bargaining, I guess? That was not your answer?

20 A JUROR: No.

21 THE COURT: Okay. Do you have any strong views
22 about drug laws or drug prosecutions?

23 A JUROR: No.

24 THE COURT: Anybody close to you has substance
25 abuse problems or been in the drug treatment program?

1 A JUROR: No.

2 THE COURT: I went through a number of
3 constitutional rights that the defendant has a right to be
4 silent, not have to testify, and the burden of proof is
5 beyond a reasonable doubt, all on the government. The
6 defense doesn't have to present any evidence.

7 Do you have any concerns about any of that?

8 A JUROR: No.

9 THE COURT: The verdict is going to have to be
10 unanimous. You will have to respect the views of other
11 jurors, but also, you know, be comfortable with the verdict
12 yourself.

13 Do you have any concerns about that?

14 A JUROR: No.

15 THE COURT: The schedule, we're going to need
16 you, until perhaps the end of next week, probably the 24th.

17 Does that pose a substantial hardship for you?

18 A JUROR: No, it doesn't.

19 THE COURT: Any COVID-related concerns?

20 A JUROR: No.

21 THE COURT: No. Okay. Do you think -- were
22 there any other topics you wanted to talk to us about?

23 A JUROR: No.

24 THE COURT: No.

25 A JUROR: No.

1 THE COURT: Any questions from the government?

2 MS. WELSH: No questions.

3 THE COURT: From the defense.

4 MS. CHAVAR: Your Honor, I didn't know -- I
5 don't think I heard questions with respect to law
6 enforcement.

7 THE COURT: I think I raised that, but if I
8 didn't let me ask again.

9 So do you think you would tend to give testimony
10 from a law enforcement witness greater or lesser weight
11 simply because he or she is a law enforcement witness.

12 A JUROR: No.

13 THE COURT: No.

14 A JUROR: Uh-uh.

15 THE COURT: No. Any questions?

16 MS. CHAVAR: No question.

17 THE COURT: All right. //, we're
18 going to ask you to wait in the court next to us. Thank you
19 very much.

20 A JUROR: Okay.

21 (Juror left courtroom.)

22 MS. CHAVAR: We're getting close to 12.

23 THE COURT: I think we're close.

24 (Juror entered courtroom.)

25 THE COURT: Good afternoon. If you could come

1 how he was treated by the criminal justice system? Do you
2 think he was treated fairly?

3 A JUROR: Well, the sexual conviction was
4 against my granddaughter, so I really had strong feelings.

5 THE COURT: Okay.

6 A JUROR: Against the whole thing.

7 THE COURT: All right. And you say your son has
8 had substance abuse addiction?

9 A JUROR: Him and his wife, ex-wife now, but,
10 yes.

11 THE COURT: All right.

12 A JUROR: And I'm raising their kids for ten
13 years.

14 THE COURT: Okay. Do you think that you could
15 be a fair and impartial juror on a case that involved
16 allegations of drug dealing?

17 A JUROR: Not really.

18 THE COURT: No? And how is it that you think
19 you would be unfair? Do you think you would be biased
20 towards the government or biased --

21 A JUROR: I would probably be biased towards the
22 government, yes.

23 THE COURT: Okay. All right. Well, I'm going
24 to excuse you from serving on this jury.

25 A JUROR: All right.

1 A JUROR: I had a general contracting business
2 for, like, five years.

3 THE COURT: Okay.

4 A JUROR: It was 2000 I think 8 -- '07 to '12.

5 THE COURT: Okay.

6 A JUROR: I think there was another one you
7 had asked about someone being, a family member being in
8 rehab.

9 THE COURT: Yes.

10 A JUROR: I had a stepson. My stepson was in
11 rehab.

12 THE COURT: Okay.

13 A JUROR: For probably a couple times, two or
14 three times.

15 THE COURT: Okay.

16 A JUROR: Plus he spent some time incarcerated.

17 THE COURT: The same stepson?

18 A JUROR: Yes, sir.

19 THE COURT: Okay.

20 A JUROR: I think that's it.

21 THE COURT: Was that drug related?

22 A JUROR: Yes, drug-related.

23 THE COURT: Do you -- I'm sorry I have to ask,
24 but do you know what substance he was addicted to or had
25 issues with?

1 A JUROR: Opiates, and he was -- I believe he
2 got on heroin.

3 THE COURT: Do you think that you could be a
4 fair and impartial juror in a case that has the allegations
5 related to drug dealing?

6 A JUROR: I think so, yes.

7 THE COURT: Okay. Do you think there were other
8 areas you had "yes" answers to?

9 A JUROR: No. I think that was the only two I
10 believe I had "yes" answers to.

11 THE COURT: All right. Any questions from the
12 government?

13 MS. WELSH: No questions.

14 THE COURT: From the defendant, any questions?

15 MS. CHAVAR: No questions.

16 THE COURT: All right. I'm going to have you
17 wait in the courtroom next-door.

18 A JUROR: Okay.

19 THE COURT: Thanks very much.

20 A JUROR: Mm-hmm.

21 (The juror left the courtroom.)

22 THE COURT: Good afternoon. If you could come
23 forward through the doors. Thank you.

24 ////////////////; is that right?

25 A JUROR: Yes.

1 THE COURT: Okay. You can come forward.

2 A JUROR: Okay.

3 THE COURT: Do you mind taking the mask off?

4 A JUROR: No.

5 THE COURT: Thank you.

6 A JUROR: Mm-hmm.

7 THE COURT: Do you recall if you had any "yes"
8 answers to my questions?

9 A JUROR: Yes, I had two.

10 THE COURT: Okay. Do you remember what they
11 were?

12 A JUROR: One I believe was having personal,
13 like a personal business with the family. Yes. My father,
14 he owned his own veterinary business, and my stepmother, she
15 has her own like jams and jellies. She makes her own
16 candies.

17 THE COURT: Have you, yourself, worked for
18 either of those businesses?

19 A JUROR: Yes, both of them. I have and still
20 am.

21 THE COURT: Okay. All right. What generally do
22 you do for the veterinary practice?

23 A JUROR: I'm a receptionist, so I work up
24 front, help with phone calls, check them in.

25 THE COURT: And for the jam and jelly business?

1 A JUROR: Basically, I'm like her right-hand
2 person, like helping her with anything I need to do,
3 preparing it or helping her get done the canning process.

4 THE COURT: Great. Okay. And I think there was
5 another question?

6 A JUROR: Yes. I believe it was the one with
7 the question that asked if there's, like, a problem
8 attending to the next week.

9 THE COURT: Yes.

10 A JUROR: I do work three jobs and all of them
11 are very low on staff because of COVID 19, unfortunately, so
12 it will be troublesome for me, but if I have to, I will try
13 to contact all of my bosses and try to figure it out.

14 THE COURT: Do the three jobs include the two
15 that we just talked about?

16 A JUROR: One of them is the veterinary
17 practice, yes. One of them is a substitute, which is a
18 part-time job. And the third one is I work at a fast food
19 restaurant. I've been promoted to kind of like a manager.
20 I'm always there like almost seven days a week.

21 THE COURT: Okay. And so the jams and jellies
22 on top of that?

23 A JUROR: Yes, whenever that comes around.

24 THE COURT: All right. Are you scheduled or
25 expect to work at some or all of these jobs next week?

1 A JUROR: Yes, I am working.

2 THE COURT: And if you are not there, would you
3 get paid?

4 A JUROR: No, I will not be paid if I'm not
5 there.

6 THE COURT: Okay. All right. Any questions
7 from the government?

8 MS. WELSH: No, nothing.

9 THE COURT: Any questions from the defense?

10 MS. CHAVAR: No, Your Honor.

11 THE COURT: All right. I will have you wait
12 outside.

13 A JUROR: All right.

14 THE COURT: Thank you.

15 (The juror left the courtroom.)

16 THE COURT: Any objection to striking her for
17 financial hardship?

18 MS. WELSH: No, Your Honor.

19 THE COURT: Any objection?

20 MS. CHAVAR: No, Your Honor.

21 THE COURT: Okay. I will strike her for the
22 hardship given the three of the four jobs she has. Let's
23 bring her back.

24 (The juror entered the courtroom.)

25 THE COURT: //, thank you very much.

1 I'm going to excuse you from serving on this jury.

2 A JUROR: Okay.

3 THE COURT: So you are free to go. Thank you
4 very much.

5 A JUROR: Thank you.

6 THE COURT: Bye-bye.

7 (The juror entered the courtroom.)

8 THE COURT: If you could come through the door
9 for me, please. And you are Juror No. 58?

10 A JUROR: Yes.

11 THE COURT: Okay. Do you mind taking your mask
12 off? Thank you so much.

13 A JUROR: Do I stand here?

14 THE COURT: Right there is great. Can you hear
15 me?

16 A JUROR: Yes.

17 THE COURT: Okay. Did you have any "yes"
18 answers to my questions?

19 A JUROR: Not that I can remember.

20 THE COURT: No? Do you have any concerns about
21 serving on this jury?

22 A JUROR: No.

23 THE COURT: No?

24 A JUROR: No.

25 THE COURT: Okay. Anything you wanted to raise

1 with me?

2 A JUROR: No.

3 THE COURT: No? Any questions from the
4 government?

5 MS. WELSH: No questions.

6 THE COURT: From the defense?

7 MS. CHAVAR: No.

8 THE COURT: Okay. We're going to have you wait
9 in the courtroom next-door. Okay?

10 A JUROR: All right.

11 THE COURT: We'll see you shortly.

12 (The juror left the courtroom.)

13 * * *

14 (The juror entered the courtroom.)

15 THE COURT: Good afternoon. If you would come
16 forward through the door, please. Are you // // // // //?

17 A JUROR: Yes.

18 THE COURT: Okay. Do you mind taking the mask
19 off? Thank you very much.

20 Did you have any "yes" answers to my questions?

21 A JUROR: No.

22 THE COURT: None at all?

23 A JUROR: No.

24 THE COURT: Any concerns?

25 A JUROR: No.

1 THE COURT: Okay. Any questions.

2 MS. WELSH: No.

3 THE COURT: Any questions from the defense?

4 MS. CHAVAR: No, Your Honor.

5 THE COURT: Okay. All right. You can go back
6 to the other courtroom. Thanks very much.

7 (The juror left the courtroom.)

8 THE COURT: I think we've reached 32, but let me
9 just double-check.

10 Do you know if the members of the first group
11 are next-door or if they are still downstairs?

12 DEPUTY CLERK: I don't know. I will check.

13 THE COURT: Please check.

14 So we do believe we have 32. I think what I
15 should do is have my deputy read off the juror numbers of
16 the 32, and then if we're all in agreement, we'll work on
17 getting them here and bringing them in.

18 DEPUTY CLERK: Juror No. 1, Juror No. 2, 3, 6,
19 9, 11, 12, 15, 17, 21, 22, 23, 24, 27, 30, 31, 32, 34, 36,
20 37, 39, 41, 43, 44, 47, 49, 51, 52, 54, 56, 58 and 59.

21 THE COURT: Are they in there?

22 DEPUTY CLERK: They are.

23 THE COURT: Thank you. Does the government
24 agree that those are the jurors that are in our pool?

25 MS. WELSH: Yes, Your Honor.

1 THE COURT: Okay. And, Ms. Chavar, does the
2 defense agree?

3 MS. CHAVAR: Yes, Your Honor.

4 THE COURT: All right. So that's 32. Since we
5 know they're all in the building and we need 12 jurors plus
6 two alternates, the government gets seven peremptory strikes
7 and the defense gets 11. When you add all of that up, you
8 get to 32.

9 I think we can go ahead and excuse the remaining
10 jurors, the Jurors No. 60 through 77.

11 Does the government have any objection to me
12 striking 60 through 77?

13 MS. WELSH: Other than a generalized fear of
14 losing someone and having a problem, if that's what the
15 Court typically does?

16 THE COURT: This is my only second time doing it
17 this way, you know, with COVID. I don't want to keep 17
18 people around just on the off chance something unexpected
19 happens in the next half-hour with the peremptories.

20 What we could do is bring in a couple more now,
21 you know, get a couple extra qualified and then go forward
22 with 34 or 35 and then excuse the remainder.

23 The reason why we want to excuse the remainder,
24 not just for convenience to them and health, but
25 mathematically, there's no way we can get to them being on

1 the jury and they've ended up in the 60 to 77 just randomly.
2 But, again, I'm happy to pick a couple more, but I would do
3 it through the process that we've been following at this
4 point.

5 MS. WELSH: Your Honor, this may be overly
6 cautious, but if we could just try to do two more.

7 THE COURT: That's fine. Ms. Chavar, I'm going
8 to do at least two more, but what is your position at this
9 point?

10 MS. CHAVAR: I'm okay with the 32. If you want
11 to do a few more, though, I'm okay with that as well.

12 THE COURT: Let's try to get to 34. Let's bring
13 them in. I think we're up to Juror No. 60.

14 DEPUTY CLERK: Judge, No. 30 from this morning
15 has something to say.

16 THE COURT: Number 30 from this morning? All
17 right. And -- hold on. Is he or she available now?

18 DEPUTY CLERK: She's bringing them over.

19 THE COURT: Okay. And we're working on getting
20 60, 61, 62 ready?

21 DEPUTY CLERK: Yes. 30 and 60 are ready.

22 THE COURT: Thank you.

23 (The juror entered the courtroom.)

24 A JUROR: Hi.

25 THE COURT: Good afternoon. Please come forward

1 again.

2 You're our Juror No. 30?

3 A JUROR: Yes.

4 THE COURT: Is that right? Is there something
5 more you want to tell us?

6 A JUROR: Do the security officers matter for
7 the law enforcement?

8 THE COURT: I'm sorry. Can you take your mask
9 off?

10 A JUROR: I'm sorry.

11 THE COURT: Do security officers?

12 A JUROR: Matter for the first question?

13 THE COURT: Sure. Like you know some security
14 officer?

15 A JUROR: My uncle and my dad. My dad is in New
16 York. He does security out there and then my uncle, he does
17 security in Georgetown, Delaware.

18 THE COURT: Okay. Well, thank you for sharing
19 that with us.

20 Do you think that that is going to make you
21 treat law enforcement witnesses any differently than other
22 witnesses?

23 A JUROR: Yes.

24 THE COURT: You do think so?

25 A JUROR: Yes.

1 THE COURT: How so?

2 A JUROR: Well, I'm nervous.

3 THE COURT: That's okay. Take your time.

4 A JUROR: I really don't know what to say.

5 THE COURT: You don't know what to say. I mean,
6 so part of this trial, a number of people are going to come
7 in and testify and tell you things and it will be up to you
8 to decide if you believe what they are saying. Some of
9 those are going to be law enforcement witnesses.

10 A JUROR: Okay.

11 THE COURT: So they work for police agencies or,
12 you know, drug enforcement administration. Okay?

13 A JUROR: All right.

14 THE COURT: You're going to have to decide if
15 you believe what they are saying.

16 A JUROR: Okay.

17 THE COURT: Do you think that you can do that
18 fairly and impartially?

19 A JUROR: Yes, I can.

20 THE COURT: And the fact that you have these
21 close family members that do security work, do you think
22 that's going to make you more likely to think that the law
23 enforcement witnesses I'm talking about are telling the
24 truth?

25 A JUROR: Yes.

1 THE COURT: You do think so based on the
2 experience of your family security?

3 A JUROR: Right.

4 THE COURT: So if I instruct you that you're to
5 treat everyone the same and evaluate their testimony the
6 same if they're law enforcement or not, could you follow
7 that instruction?

8 A JUROR: Yes.

9 THE COURT: Yes?

10 A JUROR: And then another thing. Other than
11 Kent County, I live in Magnolia, Delaware, so, like, driving
12 from -- back and forth.

13 THE COURT: It's a hardship?

14 A JUROR: Yes.

15 THE COURT: If we put you up in a hotel all of
16 next week, would that help or would that not help?

17 A JUROR: It could help.

18 THE COURT: It could?

19 A JUROR: Yeah, it could help, yeah.

20 THE COURT: Okay. I'm going to have you wait
21 out in the hall.

22 A JUROR: Okay. Thank you.

23 THE COURT: Okay. Thank you.

24 (The juror left the courtroom.)

25 THE COURT: So Juror No. 30 did appear very

1 nervous to me and it seemed to me like he would like to not
2 be on this jury. I think I probably should strike him, but
3 is there any objection to striking him?

4 MS. WELSH: No objection, Your Honor.

5 THE COURT: All right. How about from the
6 defense?

7 MS. CHAVAR: No objection, Your Honor.

8 THE COURT: All right. So we'll strike Juror
9 30, which means we're going to try to find three more
10 that qualify. But let's bring 30 back in for a moment,
11 please.

12 (The juror entered the courtroom.)

13 THE COURT: Mr. Powers, thank you again. Thanks
14 for sharing that extra information with us. I've decided
15 I'm going to excuse you from serving on the jury, so you're
16 free to go at this point.

17 A JUROR: Thank you.

18 THE COURT: Bye-bye.

19 A JUROR: Thanks so much.

20 (The juror left the courtroom.)

21 * * *

22 (The juror entered the courtroom.)

23 THE COURT: Good afternoon. Would you come
24 forward through those doors, please. Are you Ms. Guerrero?

25 A JUROR: Yes.

1 THE COURT: Okay. And do you mind taking the
2 mask off? Thank you.

3 Do you remember at this point if you had any
4 "yes" answers to my questions?

5 A JUROR: No.

6 THE COURT: Meaning you had no "yes" answers?

7 A JUROR: No, I didn't have any. I don't think
8 so.

9 THE COURT: Okay. Do you have any concerns
10 about serving on this jury that you want to talk to us
11 about?

12 A JUROR: As far as coming back, because I can't
13 come back. I actually don't have a car or a phone.

14 THE COURT: Come a little bit closer. So you
15 don't have a car?

16 A JUROR: Yeah, or a phone, so I mean I don't
17 know how I'm going to get home today.

18 THE COURT: Oh, no. How did you get here
19 today?

20 A JUROR: Well, my mother dropped me off, but as
21 far as getting back, I don't know.

22 THE COURT: She's not picking you up?

23 A JUROR: She is. I don't have a phone. I
24 don't know if you guys provide a phone to call back.

25 THE COURT: I'm sure we can help you out with

1 that to make a phone call. So if we needed to have you here
2 next week, you don't know how you would get here?

3 A JUROR: No.

4 THE COURT: Okay. Anything else you wanted to
5 raise with us?

6 A JUROR: No.

7 THE COURT: No? Okay. Any questions?

8 MS. WELSH: No questions.

9 THE COURT: Any questions?

10 MS. CHAVAR: Good afternoon. Hi.

11 A JUROR: Hi.

12 MS. CHAVAR: Do you use public transportation at
13 all?

14 A JUROR: No.

15 MS. CHAVAR: You don't. Thank you.

16 THE COURT: Okay. You can wait out in the hall
17 there, please.

18 (The juror left the courtroom.)

19 THE COURT: I think I should strike her. It
20 sounds like it would be a hardship to get here and to get
21 home every day next week. I didn't want to press much
22 further, but any objection to striking her?

23 MS. WELSH: I don't see how we can't under the
24 circumstances.

25 THE COURT: Ms. Chavar, any objection? The

1 government had no objection.

2 MS. CHAVAR: No objection.

3 THE COURT: All right. //, are we able
4 to offer her a phone to call her mom?

5 DEPUTY CLERK: I think so.

6 THE COURT: All right. Could someone do that
7 after you bring her back in and I excuse her?

8 (The juror entered the courtroom.)

9 THE COURT: Come on forward. Are you //?

10 A JUROR: Yes.

11 THE COURT: Juror No. 61. Right?

12 A JUROR: Yes.

13 THE COURT: Did you -- do you mind taking your
14 mask off?

15 A JUROR: Sure.

16 THE COURT: Thank you.

17 A JUROR: I can breathe.

18 THE COURT: Did you have any "yes" answers to my
19 questions?

20 A JUROR: Just the one about being related to
21 police officers.

22 THE COURT: And are you related to police
23 officers?

24 A JUROR: My dad was a Delaware State trooper
25 for 20 years.

1 THE COURT: Okay. Do you think that you could
2 be fair and impartial in evaluating the testimony of other
3 law enforcement officers?

4 A JUROR: Say that again.

5 THE COURT: Do you think that you could be fair
6 and impartial in evaluating the testimony of law enforcement
7 officers?

8 A JUROR: I believe them. I would believe them.

9 THE COURT: You believe them?

10 A JUROR: The police officers.

11 THE COURT: You would believe them?

12 A JUROR: Mm-hmm.

13 THE COURT: Based on your experience with your
14 dad?

15 A JUROR: I always grew up thinking the police,
16 if they arrested you, you had to be guilty.

17 THE COURT: Okay. All right. I'm going to
18 excuse you from serving on the jury. Thank you very much.

19 A JUROR: Thank you.

20 THE COURT: You're free to go.

21 A JUROR: Thanks.

22 (The juror left the courtroom.)

23 THE COURT: What about Juror No. 60?

24 DEPUTY CLERK: Deb is going to help her make a
25 phone call.

1 THE COURT: I didn't get a chance to tell her
2 she was stricken. You can tell her.

3 (The juror entered the courtroom.)

4 THE COURT: Good afternoon.

5 A JUROR: Hi.

6 THE COURT: You can come through the doors
7 there. Are you ///?

8 A JUROR: Yes.

9 THE COURT: Do you mind taking your mask off?

10 A JUROR: No.

11 THE COURT: Great. Thank you.

12 Did you have any "yes" answers to my questions?

13 A JUROR: I did not.

14 THE COURT: You did not?

15 A JUROR: No.

16 THE COURT: Any concerns about serving on this
17 jury?

18 A JUROR: No.

19 THE COURT: Okay. Any questions from the
20 government?

21 MS. WELSH: No.

22 THE COURT: From the defense?

23 MS. CHAVAR: Excuse me one moment.

24 THE COURT: Sure.

25 MS. CHAVAR: Just a quick question.

1 THE COURT: Sure.

2 MS. CHAVAR: Hi.

3 A JUROR: Hi.

4 MS. CHAVAR: I note that you are employed in
5 anti-money laundering analysis?

6 A JUROR: Yes.

7 MS. CHAVAR: Could you tell me just a little bit
8 about that and where you're employed?

9 A JUROR: Sure. I work in -- I'm an
10 investigator for Capital One. I work in transaction
11 monitoring, so my job is simply to, like, review alerts that
12 come in for potential money laundering and escalate if there
13 are any concerns.

14 MS. CHAVAR: Okay. Can I ask you, like, what
15 your red flags would be for money laundering activity?

16 A JUROR: We look for, like, structuring or lots
17 of money moving in and out quickly with people with -- like
18 where there are no relationships between the customer and an
19 individual that we can't identify. If we find information
20 about the customer, like negative news, that could be a
21 concern.

22 MS. CHAVAR: Okay. So is your training that
23 when you see movement or some of the circumstances that you
24 just explained --

25 A JUROR: Sure.

1 MS. CHAVAR: -- to assume that there's money
2 laundering and to look into it?

3 A JUROR: No. I'm definitely not assuming
4 that's money laundering. I basically try to take all the
5 information that I have available to me, information that I
6 find on the customer, either within our records or through
7 external databases and just make a judgment on the activity,
8 whether or not that is unusual.

9 MS. CHAVAR: Okay.

10 A JUROR: But, like, at no point do I say
11 there's definitely money laundering happening. I just
12 am basically making an assessment whether there is
13 potentially.

14 MS. CHAVAR: Okay.

15 A JUROR: And I -- oh, no.

16 MS. CHAVAR: Go ahead.

17 A JUROR: I really do my best in my job to make
18 the best decision that I possibly can with information that
19 I have.

20 MS. CHAVAR: So every time you have looked
21 into -- any time there was a circumstance that required you
22 to look into further, did you always find money laundering
23 in those circumstances?

24 A JUROR: No, not always.

25 MS. CHAVAR: Okay. Thank you.

1 A JUROR: You're welcome.

2 THE COURT: In your work, do you deal directly
3 with law enforcement?

4 A JUROR: I don't deal directly with law
5 enforcement because I did notice that question. So I would
6 be -- I might file a suspicious activity report and then --
7 well, maybe I guess. It goes to Fin Sen, but that's the
8 extent of my contact.

9 THE COURT: Okay.

10 A JUROR: I never have any idea what happens
11 after that.

12 THE COURT: Okay.

13 A JUROR: So I just submit concerns.

14 THE COURT: All right.

15 A JUROR: That's the end of my involvement.

16 THE COURT: Right. Okay. Thank you.

17 MS. CHAVAR: All right.

18 THE COURT: I'm going to have you wait out in
19 the hallway for a minute, please.

20 A JUROR: Thanks.

21 (Juror left courtroom.)

22 THE COURT: Any motion from the government?

23 MS. WELSH: No, Your Honor.

24 THE COURT: From the defense?

25 MS. CHAVAR: No, Your Honor.

1 THE COURT: Okay. Bring her back.

2 (Juror entered courtroom.)

3 THE COURT: //, thank you. I'll have
4 you go back into the courtroom and wait for further
5 instructions.

6 A JUROR: Okay. Thanks.

7 (Juror left courtroom.)

8 * * *

9 (Juror entered juryroom.)

10 THE COURT: Good afternoon. If you could come
11 through the doors there, please.

12 Are you //?

13 A JUROR: //.

14 THE COURT: //.

15 A JUROR: Where am I going?

16 THE COURT: Right there is good if you can you
17 hear me.

18 Do you mind taking the mask off?

19 Did you have any "yes" answers to my questions?

20 A JUROR: I did have a couple.

21 THE COURT: Do you remember what they were?

22 A JUROR: Yeah. I think one thing was: Has
23 anybody in your family been convicted of some type of crime.
24 Now, my husband was convicted of something when he was 19.

25 I'm also getting fitted for a hearing aid at the

1 end of the month.

2 THE COURT: Okay.

3 A JUROR: And I just wanted to let you know, I
4 did report to Superior Court jury duty in August. Didn't
5 realize that the two were connected, like that if I reported
6 there that I didn't -- might not somewhere to report here.

7 THE COURT: Oh, I'm not sure if that's correct.

8 A JUROR: I don't know if it is either. Which
9 is why I didn't do anything about it.

10 And the only other thing I think I answered
11 "yes" to was my husband at one point in time was
12 self-employed.

13 THE COURT: Okay. All right. Let me ask you
14 just a few questions about that.

15 So do you know what your husband was convicted
16 of when he was a teenager?

17 A JUROR: I think it was some kind of
18 conspiracy --

19 THE COURT: Okay.

20 A JUROR: -- with like some other people he was
21 with.

22 THE COURT: Do you have any feelings about the
23 criminal justice system, either from his experience or any
24 thing else?

25 A JUROR: I didn't know him at the time.

1 THE COURT: Right. Do you have any reason to
2 think he was treated unfairly or anything like that?

3 A JUROR: No.

4 THE COURT: No. And you were on jury duty just
5 this summer, I guess.

6 A JUROR: Well, I didn't go on to jury duty. I
7 was --

8 THE COURT: You were called.

9 A JUROR: I reported, right.

10 THE COURT: Okay.

11 A JUROR: Yes.

12 THE COURT: Have you ever actually served on a
13 jury?

14 A JUROR: No.

15 THE COURT: Okay. And did you say was it your
16 husband who used to be self-employed?

17 A JUROR: Yes.

18 THE COURT: Okay. And what did he -- what kind
19 of business?

20 A JUROR: Concrete.

21 THE COURT: Concrete. Okay. Does he still do
22 that?

23 A JUROR: Well, he just retired a couple years
24 ago.

25 THE COURT: Okay.

1 A JUROR: I mean, but he hadn't his own business
2 for a long time.

3 THE COURT: Okay. And in terms of the hearing,
4 have you been able to hear me okay throughout this process?

5 A JUROR: Most of the time. I mean, its usually
6 like if someone has like a low voice, it just kind of sound
7 like mumbly to me.

8 THE COURT: Okay. But I think you heard what I
9 was saying when I was reading those questions?

10 A JUROR: I think most of it, yeah.

11 THE COURT: So these chairs over here, this is
12 where the jury is going to sit next week.

13 A JUROR: That's where I was sitting.

14 THE COURT: Okay. In the back row?

15 A JUROR: Um-hmm.

16 THE COURT: Okay. So the witnesses are going to
17 be speaking from behind where you are standing. And the
18 lawyers are going to be speaking from over there.

19 A JUROR: Right.

20 THE COURT: We have a microphone system which is
21 on rights now.

22 How confident are you that you will hear what
23 we're all saying?

24 A JUROR: 50/50. And I only say that because I
25 know like when I attend work meetings, it depends on the

1 person who is speaking. If they speak with a loud voice
2 like I do, then I can usually hear them. If they speak with
3 a softer tone, then it's harder for me to really understand
4 what they're saying.

5 THE COURT: All right. I'm going to ask you to
6 go wait in the hallway for us. Thank you.

7 A JUROR: All right. Thank you.

8 (Juror left courtroom.)

9 THE COURT: Unlike the earlier individual, she
10 seems to hear me fine, but 50/50 doesn't sound like great
11 odds. So any objection to striking her?

12 MS. WELSH: No objection, Your Honor.

13 THE COURT: Any objection?

14 MS. CHAVAR: No objection, Your Honor.

15 THE COURT: All right. Let's bring her back in,
16 please.

17 (Juror entered courtroom.)

18 THE COURT: Can you hear me?

19 A JUROR: (Nodding yes.) Yes.

20 THE COURT: Come closer. Come closer. I'm
21 going to tell you that you are being excused from serving on
22 the jury. Thank you for being here and being willing to
23 serve, but you are excused so...

24 A JUROR: Next, next time I come, I'll have my
25 hearing aid.

1 THE COURT: Okay.

2 A JUROR: Thank you.

3 THE COURT: Good luck with that. Bye-bye.

4 (Juror left courtroom.)

5 * * *

6 (Juror entered juryroom.)

7 THE COURT: You can come forward. Through the
8 door, yep.

9 A JUROR: Through the door?

10 THE COURT: Through the door, yes. Thank you.

11 Are you ///?

12 A JUROR: That's me.

13 THE COURT: Do you mind taking the mask off for
14 our discussion? Thank you.

15 Did you have any "yes" answers to my questions?

16 A JUROR: I did.

17 THE COURT: Do you remember what they were?

18 A JUROR: The one that stuck out was having a
19 family member that dealt with rehabilitation due to
20 substance abuse.

21 THE COURT: Okay. I'm sorry to have to ask, but
22 who in your family?

23 A JUROR: My brother. I have a pair of brothers
24 that had addiction problems.

25 THE COURT: Both of them?

1 A JUROR: Yes.

2 THE COURT: Okay. And is that an ongoing
3 situation?

4 A JUROR: No, not anymore. I mean, it was. I
5 just felt that I needed to say "yes" to the answer.

6 THE COURT: Yes. Of course. Thank you. Do you
7 know what substance it was?

8 A JUROR: Yeah, heroin.

9 THE COURT: Do you think that you could be a
10 fair and impartial juror in a trial which you will hear
11 evidence related to drugs?

12 A JUROR: I do.

13 THE COURT: Okay. Other things that you
14 answered "yes" to?

15 A JUROR: Not to -- not that I can recall.

16 THE COURT: Any other concerns you wanted to
17 raise about possibly being on this jury?

18 A JUROR: No.

19 THE COURT: No. Okay.

20 Any questions?

21 MS. WELSH: No, Your Honor.

22 THE COURT: Any questions?

23 MS. CHAVAR: No, Your Honor.

24 THE COURT: Okay. You can go wait in the
25 courtroom next door. Thanks.

1 I struck the one and we added three at the end. Why don't
2 we at least make clear for the record, again, the number of
3 the ones that we struck and the three that we have added
4 since we last read the list.

5 THE DEPUTY CLERK: Juror No. 3 was struck, and
6 62, 64, and 65 were added.

7 THE COURT: Any objection? Is that correct?

8 MS. WELSH: That's correct.

9 THE COURT: Ms. Chavar, you agree that is
10 correct?

11 MS. CHAVAR: I do.

12 THE COURT: So here is what is going to happen
13 next. Well, I guess at this point, any objection to any
14 striking 66 through 77?

15 MS. WELSH: No, Your Honor.

16 THE COURT: And --

17 MS. CHAVAR: No, Your Honor.

18 THE COURT: So the first thing I'm going to do
19 is have 66 through 77 brought in here. I'm going to thank
20 them and excuse them as a group.

21 Then I'm going to take a short break while we
22 line up and bring in the 34 that are still in the pool and
23 they're going to be seated in order.

24 I forget, are they going to be seated all on the
25 benches? Yes, so they'll be seated on the benches. We'll

1 make sure that you know who is 1 through whoever is our top
2 number is.

3 Once they're all seated, I'll come back in.
4 I'll say a few things to them and then we'll start
5 immediately with the preemptory process with the silent
6 passing of the clipboard back and forth.

7 After you are done with that, I'll ask you if
8 there are any objections to the striking process. And if
9 there aren't, we'll excuse the 18 that you have stricken.
10 We will -- I think then go ahead and seat the 14 here in
11 the jury box just so you have a chance to see them all
12 as a jury. We'll give them their oath and then we'll
13 send them home until Monday, and then I can finish up for
14 today.

15 Any questions about any of that?

16 MS. WELSH: No, Your Honor.

17 THE COURT: Any questions?

18 MS. CHAVAR: No, Your Honor.

19 THE COURT: Okay. Can we try and get 66 through
20 77, please?

21 (Excused jurors enter courtroom.)

22 THE COURT: Find a seat anywhere back there,
23 please.

24 Ladies and gentlemen, thank you for being here
25 today and for your willingness to serve. I have now

1 excused all of you from any further obligation to serve on
2 this jury. But it was important that you be here and I
3 appreciate that you were here. You are all free to go at
4 this point. So thank you again, and you are excused.
5 Bye-bye.

6 (Excused jurors leave courtroom.)

7 THE COURT: I'm going to take a short break and
8 we'll bring the 34 remaining jurors in and have them seated
9 here, and we'll get started as soon as we're ready.

10 We'll be in a short recess.

11 (Brief recess taken.)

12 * * *

13 (Proceedings reconvened after recess.)

14 THE COURT: Have a seat, please. Ladies and
15 gentlemen of the jury pool, thank you for your patience
16 today. We're about to begin the last step of the jury
17 selection process. These are called peremptory strikes.

18 You may have heard me mention it before, but
19 both sides have the right to strike 18 of you for no reason
20 at all. The way we do that is we silently pass a clipboard
21 back and forth between the two sides, so we'll ask for your
22 continued patience as we do that. After they finish the
23 strikes, we'll tell you who are the 14 jurors and we'll be
24 able to excuse the rest of you.

25 So let's distribute the clipboard, please.

1 (The clipboard was handed to Ms. Welsh.)

2 ((Silent striking process takes place.))

3 THE COURT: Counsel, are there any objections to
4 the striking process?

5 MS. WELSH: No, Your Honor.

6 MS. CHAVAR: No, Your Honor.

7 THE COURT: Okay. All right. I'll have my
8 deputy read out the numbers and/or names of the 14 jurors
9 who will then be asked to find a seat, here, in our jury
10 box.

11 THE DEPUTY CLERK: Juror No. 1, please come
12 forward and have a seat right here.

13 Juror No. 2, please come forward.

14 Juror No. 3, please come forward.

15 Juror No. 12, please come forward.

16 Juror No. 21, please come forward.

17 Juror No. 22, please come forward.

18 Juror No. 27, please come forward.

19 Juror No. 31, please come forward.

20 Juror No. 41, please come forward.

21 Juror No. 43, please come forward.

22 Juror No. 43 please come forward -- I'm sorry.

23 Juror No. 47.

24 Juror No. 49, please come forward.

25 Juror No. 58, please come forward.

1 And Juror No. 59, please take the last chair.

2 THE COURT: Are there any issues from the
3 government?

4 MS. WELSH: No, Your Honor.

5 THE COURT: Okay. Any issues from the defense?

6 MS. CHAVAR: No, Your Honor.

7 THE COURT: Okay. Thank you. Ladies and
8 gentlemen in the jury box, bear with me. I'll have some
9 more words for you in just a moment. But to those of you
10 who are not in the jury box, all of you in the benches
11 back there, you are not on this jury. Thank you very
12 much for spending most of the day with us. We appreciate
13 your willingness to serve. You are all free to go at this
14 time.

15 (Unselected jurors excused.)

16 THE COURT: Ladies and gentlemen of the jury,
17 the deputy will pass you some Bibles. You will have to
18 share them.

19 Okay. We're going to stand and administer the
20 oath.

21 (Jurors placed under oath.)

22 THE COURT: Thank you very much. We'll collect
23 the bibles. You can have a seat.

24 Just a few words from me, ladies and gentlemen.
25 As I think you know, the trial is going to start on Monday.

1 So what remains to happen today is my deputies are going to
2 take you into our jury room, which is the courtroom next
3 door to here that you spent some time in today. But they're
4 going to show you through our private hallways back here
5 behind me. They're going to show you how to get in and out
6 on Monday and next week when you are with us because we have
7 a separate entrance for you to use as jurors, so they're
8 going to explain all of this to you before we let you go
9 today.

10 But we will start the jury proper on Monday
11 morning. We want to start at 9:00 o'clock.

12 As you may have heard me say, we're going to
13 provide lunch for you. What that means is we're going to
14 have some menus waiting for you when you come in, and you
15 will need a few minutes to look at the menus and tell us
16 what you want. So if you could plan to get here a little
17 bit ahead of 9:00 o'clock, that will help us move things
18 along.

19 But we'll start Monday morning 9:00 o'clock.
20 I'll read to you what are called preliminary instructions.
21 And then the parties will have a chance to make opening
22 statements if they want and they'll start calling witnesses
23 and presenting evidence to you.

24 We will finish each day no later than 5:00
25 o'clock. And there will be a morning break and afternoon

1 break and a lunch break. And I'll have more information
2 about all of that for you in those preliminary instructions
3 that I will read to you on Monday morning.

4 While you are away from us over the weekend, and
5 I will remind you of this throughout the trial, you are not
6 to talk about this case. You don't know very much yet, but
7 even as we start presenting evidence to you, it's important
8 that you keep an open mind and that you not talk to even one
9 another or to anybody else about this case.

10 You can tell folks that you have been selected
11 for a jury and that you have to be back here for a trial
12 next week. But you are not to talk to them about the case
13 or what you know and increasingly over the next week will
14 know before the case. It is important that you are not
15 influenced by anybody or anything in deciding this case
16 other than what you hear presented as evidence in the trial.
17 And I'll explain that further on Monday as well.

18 Don't do any research about this case or about
19 anyone involved in it. Again, you are just going to decide
20 the case based on the evidence presented.

21 One other thought. The temperature has been
22 pretty okay, I think, in the courtroom today. But it tends
23 to fluctuate and sometimes it's too cold and sometimes it's
24 too hot. I apologize in advance. I don't control the
25 temperature. But the best strategy tends to be to bring

1 layers with you. And you can leave things in our jury
2 courtroom or you can have them in the courtroom with you and
3 put things on and take things off during the course of the
4 day if you need to.

5 So that's it for today. Again, my deputy will
6 take you out. They have some more information for you about
7 the jury room and about how to come and go. Once are you
8 done with that, you will be free to go and hope you enjoy
9 the weekend. And we'll see you all back here Monday
10 morning. Have a great weekend.

11 (Jury left courtroom.)

12 THE COURT: All right. Have a seat. I have a
13 few matters I wanted to go over with counsel before we break
14 and see if you have any other issues.

15 But there was, Ms. Chavar, one motion in limine,
16 the issue of the codewords. And you were going to have some
17 further meet and confer. We didn't hear from you that there
18 was any remaining issues. So I assume that there is not,
19 but can you update me on that?

20 MS. CHAVAR: One moment, Your Honor.

21 THE COURT: Sure.

22 MS. CHAVAR: May I speak with Ms. Welsh?

23 THE COURT: Sure.

24 MS. CHAVAR: Thank you, Your Honor.

25 (Defense counsel and government counsel confer.)

1 MS. CHAVAR: Your Honor, Ms. Welsh and I have
2 agreed that they will only have the agent define two
3 codewords and that's "fish" and "papers".

4 THE COURT: That's the agreement?

5 MS. WELSH: That's the agreement, Your Honor.

6 THE COURT: Okay. Can you get me an order on
7 Monday that I can sign consistent with all the other ones
8 that indicate that that is what we're going to do?

9 MS. WELSH: I surely can.

10 THE COURT: All right. Thank you for that.

11 MS. CHAVAR: Thank you, Your Honor.

12 THE COURT: In terms of witnesses who are
13 detained, do we still anticipate calling one or more such
14 witnesses?

15 MS. WELSH: We do, Your Honor.

16 THE COURT: And is it one or is it more?

17 MS. WELSH: It's one.

18 THE COURT: It's one. Do we know -- do you have
19 a target day or time in mind?

20 MS. WELSH: And we have been in communication
21 with the U.S. Marshal service about that, I think that's
22 fine otherwise, we're on the same page as the marshal
23 service about that.

24 THE COURT: Well, let's make sure we're on the
25 same page, because I spoke to them, maybe, yesterday at this

1 point.

2 The concern, as I understood it, was, as you
3 know, the witness stand is going to be constructed for
4 Monday back in what is normally the public area. And they
5 were concerned about the security issues if we have the
6 public in the courtroom, kind of, behind the detained
7 witness. Is that -- was that part of your discussions with
8 the marshal?

9 MS. WELSH: That was not part of our
10 discussions.

11 THE COURT: Okay. That was the issue I need to
12 talk to you about. So given staffing issues and the number
13 of things going on in the building, their request for
14 security reasons is that -- eliminate that situation. And
15 there is two ways of doing that:

16 One being we just all simply agree or I order
17 that we're going to close the courtroom for the testimony of
18 the detained witness, meaning no member of the public will
19 be sitting behind the detained witness. That would
20 materially reduce the number of CSOs and marshals that would
21 need to be here because their concern, I think, is about
22 protecting the door behind them that is open. And people
23 could be coming and going while they're also, you know,
24 protecting everything else. So we could simply just, you
25 know, close the courtroom for that testimony.

1 Or alternatively, or relatedly, I suppose I
2 should say, we could let the public be in the overflow
3 courtroom. And we could work with IT and get this camera/TV
4 thing over here to project just that portion of the
5 testimony to another courtroom. So again, the doors would
6 be sealed and the public would not be in here, but they
7 could watch nonetheless in the overflow courtroom.

8 Does the government have a view on this?

9 MS. WELSH: Yes, Your Honor. So we -- closing
10 the courtroom and not permitting public view would create
11 substantial concerns. And so at the very least we would
12 say, yes, let's have streaming to another area. I guess
13 my question is, I don't mean to overstep, is there a
14 possibility of having just that one witness be up in the
15 actual witness box, or is that an impossibility at this
16 point?

17 THE COURT: We did discuss that and bear with me
18 a second.

19 (The Court and Law Clerk confer.)

20 THE COURT: I think it is, it is possible. Of
21 course, given the way we have reconfigured the jury box, I
22 guess they're not any closer than they would normally be,
23 but with the bunting and everything, there are kind of two
24 halves to the courtroom. So I think it could be done. We
25 probably would need to bring the witness in through the door

1 near the witness stand, and we would have to talk about --
2 and I, of course, want to know the defendant's view -- about
3 what do we do in front of the jury or if the witness is just
4 suddenly there, that sort of choreography question.

5 MS. WELSH: So, Your Honor, it's going to be
6 very clear to the jury that this witness is detained. It's
7 going to be part of our presentation. And so while we don't
8 necessarily want to have him paraded around in shackles if
9 we can avoid it, it's not going to be a great secret that
10 he's in custody.

11 THE COURT: So from the government's
12 perspective, we need not make any efforts to make this
13 witness look like all the other witnesses?

14 MS. WELSH: That's right. Yes, that's right,
15 Your Honor.

16 THE COURT: Okay. Ms. Chavar, do you have any
17 thoughts about this, what the government is proposing,
18 arguably requesting, is we would probably during a break
19 outside the jury's presence bring this witness in just
20 because he has to be brought in, you know, through a
21 different door and all that, but that there would be no
22 secret about kind of why he is testifying from a different
23 spot than everyone else.

24 MS. CHAVAR: As far as he would be in his prison
25 clothes?

1 THE COURT: Well, I don't know. Is that true?

2 MS. WELSH: Your Honor, I think that, yeah,
3 that's right. Yes.

4 THE COURT: Okay. So he would be in his prison
5 clothes and he will have a deputy marshal or someone sitting
6 near him. And I think I have to say, I need to confirm with
7 the marshals if they're okay with this arrangement. I think
8 that they are based, on my prior discussion, but ...

9 MS. CHAVAR: And these are the cooperating
10 witnesses you are talking about, so they would have the plea
11 agreement and the evidence anyway?

12 MS. WELSH: (Nodding yes.)

13 MS. CHAVAR: Okay.

14 THE COURT: You think that is all right? So
15 we'll confirm this with you by Tuesday.

16 You said you thought the witness --

17 MS. WELSH: Yes, I would say first witness on
18 Tuesday.

19 THE COURT: All right. So we'll confirm this
20 all on Monday.

21 All right. That I have an ex parte matter to
22 discuss with Ms. Chavar which relates to budget questions,
23 and we'll excuse the government for that, but before that,
24 anything else that the government wants to raise while we're
25 all together?

1 MS. WELSH: Your Honor, I do have two questions.
2 First of all, if members of the public or members of my
3 office wish to come, we actually had a couple of folks who I
4 don't know but who are doing like the Delaware bar, you
5 know --

6 THE COURT: Checklist requirements.

7 MS. WELSH: -- asking to see the opening. If
8 that were the case, are people going to be seated in here or
9 are they going to be seated in the overflow room? What's
10 the position?

11 THE COURT: So putting aside for the moment
12 the issue about the detained witness, unless I resolve that
13 with an overflow courtroom, there will be no overflow
14 courtroom and this jury -- this trial is open to the public.
15 We have a limited, more limited capacity given social
16 distancing requirements but pretty much most of those green
17 check spots can be filled before we'll have an issue, so
18 it's fine.

19 MS. WELSH: All right. And then when we're
20 giving -- I just don't know because of COVID restrictions,
21 when we're giving opening statements, what is the Court's
22 preference in terms of ability to be kind of in this region
23 (indicating in front of podium) or are we meant to be behind
24 the podium?

25 THE COURT: So I'm sticking still to the sort of

1 arm's-length rule, so you could be in front of the podium,
2 but I would want you basically not much further than where,
3 if you had to, you could touch the podium. So if you want
4 to do that, you know, obviously if you, unless you have a
5 body mike or something, you will have to make sure you speak
6 loudly enough but otherwise that is fine.

7 MS. WELSH: Great. Thank you.

8 THE COURT: All right. Ms. Chavar, any issues
9 you want to talk about while we have the government here?

10 MS. CHAVAR: No, Your Honor.

11 THE COURT: No. Okay. All right. Then I'll
12 give the AUSAs a chance to collect their things and leave us
13 for the day, that is for the weekend. We do want you here
14 by 8:30 in the morning Monday morning, if in case there are
15 issues to discuss.

16 MS. CLOUD: Thank you, Your Honor.

17 MS. WELSH: I'm sorry, I didn't hear that. What
18 was that?

19 MS. CLOUD: He wants us to leave.

20 MS. WELSH: Okay. I apologize.

21 THE COURT: Have a nice weekend, and be here at
22 8:30.

23 MS. WELSH: Thank you.

24 (Defense counsel and government counsel confer.)

25 MS. CHAVAR: Your Honor?

1 THE COURT: Yes.

2 MS. CHAVAR: Would you like for Ms. Rossman to
3 stay as well during the budget discussion?

4 THE COURT: Sure.

5 Bye-bye.

6 MS. CHAVAR: Thank you. See you guys.

7 (Government counsel leave courtroom. Unsealed
8 proceedings end at 3:56 p.m.)

9

10 I hereby certify the foregoing is a true and accurate
11 transcript from my stenographic notes in the proceeding.

12

13 /s/ Brian P. Gaffigan
14 Official Court Reporter
15 U.S. District Court
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